



**INTEGRATING FAITH-BASED ORGANIZATIONS INTO
STATE-FUNDED PRE-K PROGRAMS:
RESOLVING CONSTITUTIONAL CONFLICT**

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This policy brief addresses federal and state constitutional issues that arise when faith-based organizations participate in state prekindergarten (pre-k) programs and recommends safeguards to ensure that public funding of those programs complies with constitutional principles respecting the separation of church and state and freedom of religion. To date, there have been no court decisions analyzing a state pre-k program under the federal or state constitutions, although decisions addressing public funding of other religiously affiliated educational programs provide guidance on how courts might consider these issues. The recommendations and guidance provided in this brief are general in nature; every state's constitution and jurisprudence differ and the law in this area is evolving.

**Summary of State Policy
Recommendations**

State policymakers need to implement practical regulatory guidance for pre-k providers to keep within state and federal constitutional limitations on religious practices. These safeguards should include:

- Precluding state-funded programs from teaching religion, proselytizing, or discriminating against students on the basis of religion, and
- Ensuring that state funds are directed solely to the cost of educating and caring for children enrolled in the state-funded pre-k program.

Key to the analysis presented here is understanding that state administrative agencies have the authority to regulate and monitor faith-based early childhood programs that choose to participate in publicly funded pre-k. In fact, an effective mixed delivery system requires the agreement of all providers — public, private, and faith-based — to abide by state licensure requirements, budgeting procedures, quality

standards, such as teacher credentials and class size,¹ and all other programmatic guidelines designed to ensure the provision of high quality early learning experiences that will prepare three- and four-year-olds to succeed in school. In a significant way, private providers that participate in a state pre-k program and accept state funding agree to operate as an instrumentality of the state's early childhood system. There are no barriers to states imposing, as a condition of providing state funding, requirements and standards, including those designed to ensure compliance with constitutional principles.

The Separation of Church and State

State funding to support pre-k programs in faith-based settings could raise issues under the Establishment Clause of the First Amendment to the U.S. Constitution as well as state Blaine Amendments or “no-aid” provisions. These are state constitutional restrictions in about 37 states prohibiting the use of state funds to support sectarian schools, or in a very limited number of states, all private schools. In general, Establishment Clause concerns are easier to satisfy than potential conflicts under state Blaine Amendments. States without a Blaine Amendment must comply with the Establishment Clause; states with a Blaine Amendment must comply with both state and federal constitutional provisions. State Blaine Amendments and other state constitutional religious provisions are described in Appendix A.

Defining Faith-Based Organizations

There is no set definition of “faith-based organization,” (“FBO”) but generally some degree of affiliation with a religious institution is involved. FBOs range from those with explicit, extensive and mandatory religious content, to organizations with explicit religious messages and activities, but no mandatory participation in religious practices, to those that may have been formed by a religious institution or institutions, but whose programs have no religious content or mission.⁴¹

The Establishment Clause

The First Amendment to the U.S. Constitution prohibits Congress and all levels of state and local government from enacting laws “respecting an establishment of

religion.”² This provision requiring separation of church and state is known as the Establishment Clause.

The U.S. Supreme Court has ruled that public funding of religiously affiliated programs violates the Establishment Clause if it has “the effect of advancing religion.”³ A program impermissibly advances religion if it engages in religious indoctrination, religious discrimination, or creates an “excessive entanglement” of church and state. Faith-based organizations are precluded from using any part of government funds to support any religious content or activities, including religious worship, instruction, and proselytizing. Faith-based organizations may use public funds only to support the non-religious services they provide. They may not require program participants to engage in religious practice or activities. Religious activities must be kept separate — in time and location — from the publicly funded program, and must be privately funded.

As a measure of excessive entanglement of church and state, the U.S. Supreme Court has also looked at who is the primary beneficiary of the public funds and whether those funds enrich religious institutions. The Establishment Clause requires that “no funds traceable to the government” ever find their way into the religious institution’s accounts.⁴ Government funds must directly benefit the participants in the non-religious program; any benefit to the religious institution must be “incidental to the government’s provision of secular services for secular purposes on a religion-neutral basis.”⁵

State-Funded Pre-K and Compliance with the Establishment Clause

States can comply with the Establishment Clause while publicly funding pre-k programs by implementing safeguards that require faith-based providers to separate — in time and location — delivery of the state pre-k program from any religious activity, and by conditioning receipt of state funds on compliance with those safeguards. For example, state administrative guidelines should establish that, for the state-funded part of any program, all providers must:

- (1) utilize state-approved, secular curricula;
- (2) refrain from teaching religious beliefs;
- (3) avoid engaging in religious practices; and

(4) have religiously neutral admission criteria.

In addition, state guidelines should impose budgeting protocols to ensure that funds earmarked for pre-k are directed solely to the cost of educating and caring for children enrolled in the state-funded program, and kept out of the religious institution's accounts.

The Federal Government has issued budgeting guidance for faith-based organizations participating in federally funded programs.⁶ The guidance is designed to help these organizations avoid Establishment Clause conflicts, and can readily be adapted to state pre-k programs. This issue is discussed in more detail below.

State administrative agencies or their designees should monitor and supervise pre-k programs to ensure adherence to constitutional safeguards. Implementation of and compliance with those safeguards should not be difficult, since programs that choose to participate in state pre-k already are subject to significant state regulation and oversight.

The Question of Vouchers

On occasion, religious school proponents have urged that states avoid Establishment Clause issues by creating a voucher-based pre-k program, leaving families free to use state funds to choose among various types of schools and allowing the religious schools to include religion in their classrooms.⁴² For many reasons, advocates of high quality state pre-k programs discourage funding via vouchers. Voucher-type funding has the potential to defeat the goals of these initiatives. Uniform standards of quality across all types of pre-k providers are essential to ensuring that children have broad access to programs and services that will prepare them for success in kindergarten and beyond. State pre-k programs cannot be effective unless all providers adopt the state-mandated quality standards, offer all state-mandated services, follow a state-approved curriculum, and submit themselves to state monitoring and accountability measures. Vouchers are likely to allow schools to bypass some or all of these measures needed for a successful program.

State Blaine Amendments

About three-quarters of the states have provisions in their constitutions that prohibit the use of public funds to support schools under sectarian control. These are often referred to as “Blaine Amendments” or “no-aid” provisions and are — at least

facially — more specific and restrictive than the Establishment Clause [Appendix A contains every state Blaine Amendment]. The language and scope of Blaine Amendments varies from state to state. Some provisions explicitly prohibit the use of public funds specifically to support places of worship, others are concerned with any sectarian institution, and often “schools under sectarian control” are singled out. In addition, some Blaine Amendments are concerned only with direct aid to schools, while others mention any public aid or support that benefits the sectarian school directly or indirectly. A few state constitutions, including Alaska, and Hawaii, go so far as to ban aid to all private schools, not just those that are religious in nature.

The courts in virtually every state with a Blaine Amendment have analyzed the application of those constitutional provisions to K-12 and post-secondary education programs. When establishing or reviewing the funding structure and program guidelines for pre-k initiatives, it is important to be aware of the latest judicial interpretations of the scope of the state’s Blaine Amendment.

State Court Interpretations of Blaine Amendments and Implications for State-Funded Pre-K

State constitutional language and case law interpreting that language provide instruction on the types of questions that are likely to guide a court’s Blaine Amendment analysis of a state-funded pre-k program. The following is illustrative of that case law and is not intended as an exhaustive review. Generally, each one of these questions will need to be addressed.

1) Is the pre-k program sectarian or religious?

Since most Blaine Amendments concern state aid to sectarian and religious schools, the first consideration should be whether the school is in fact sectarian or religious in nature. In some instances, the pre-k program may be housed in a church, synagogue or other religious building, but the program itself is separate and apart from the religious institution, strictly secular, and open to all children in the community. There also may be schools that have a historical tie to a faith, but are not controlled by a religious institution, do not benefit the institution, and have no explicit religious content. Indications of a non-religious, non-sectarian pre-k program could include the complete

absence of religious teachings, materials, and practices; incorporation as a 501(c)(3) organization separate and distinct from the religious institution; and governance by an independent, secular board.

2) Is the state-funded pre-k program controlled by a religious institution?

Many states' Blaine Amendments prohibit state aid to schools under the *control* of a religious institution. For example, Missouri's Blaine Amendment prohibits state aid to schools "controlled by any religious creed, church or sectarian denomination whatever." In a ruling regarding state aid to a religiously affiliated university, the Missouri Supreme Court held that a school is subject to religious control if it "is likely to include a religious doctrine as the core decision-making model ... and will also be marked by efforts to indoctrinate the faith or support a particular religious denomination. Mere affiliation with a religion does not indicate that a[n] ... institution is 'controlled by a religious creed.'"⁷ The North Dakota Supreme Court similarly ruled that "control" under the state's Blaine Amendment is "the act or fact of controlling; power or authority to control; directing or restraining domination."⁸

Under the Missouri and North Dakota courts' analyses, a state-funded pre-k program is not impermissibly under the control of a religious institution if it is not governed by a religious doctrine, does not engage in religious indoctrination, and is not subject to the power of such institution. As indicated previously, effective state-funded pre-k programs are *publicly controlled* — all providers, including those that are faith-based, are bound by state regulations and guidance governing operation of the program. States have the authority to bar all religious content, limit the religious institution's involvement in the program, and mandate provider compliance with all state programmatic requirements.

3) Is state pre-k funding intended to aid the religious institution, or is the benefit to religion incidental?

Some state courts have interpreted their Blaine Amendment to allow incidental benefit to religious institutions. For example, despite the New York Blaine Amendment's prohibition on aid that "directly or indirectly" supports a sectarian school, the state's highest court upheld a state statute that required school districts to purchase and loan textbooks to students enrolled in parochial as well as in public and private schools. The

court remarked, “the words ‘direct’ and ‘indirect’ relate solely to the means of attaining the prohibited end of aiding religion as such.”⁹ Since the state did not intend “to assist parochial schools as such, any benefit accruing to those schools is a collateral effect of the statute, and, therefore, cannot be properly classified as the giving of aid directly or indirectly.” In other words, state funds in New York may collaterally or incidentally benefit a religious school, as long as the funds are not targeted towards aiding or furthering the religious goals of the school.

Pennsylvania’s Blaine Amendment reads, “No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.” The Supreme Court of Pennsylvania has held that the limitations of the provision “apply only when state funds flow to the sectarian school or institution.”¹⁰

The Alaska Supreme Court has devised a three part test to determine whether state aid violates the Blaine Amendments prohibition on direct benefit to sectarian and private schools: the breadth of the class to which statutory benefits are directed, i.e., is the benefit directed neutrally, not based on status or affiliation; the nature of the use to which public funds are to be put; and the magnitude of benefits conferred on the religious institution.¹¹ Public funding of a program would satisfy this test if it serves a public purpose with only incidental benefit to a private institution.

State-funded pre-k programs serve the public goal of preparing young children to enter school ready to learn and succeed. States can establish program accounting procedures, discussed below with other constitutional safeguards, that assure state aid is directed to benefit the children enrolled in program, without promoting or supporting the religious institution in violation of the Blaine Amendment.

4) Is the pre-k program performing a public function under contract with a governmental entity?

A key consideration for courts, even in states with very restrictive Blaine Amendments, is whether the school is performing a public function for the benefit of the state. For example, the Nebraska Supreme Court interpreted its Blaine Amendment, which reads, “... appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political

subdivision thereof,” to allow state funding of cancer research in a religiously affiliated university. The court stated, “this section [of the constitution] does not prohibit the State from doing business or contracting with private institutions in fulfilling a governmental duty and furthering a public purpose,” even if the religious institution “derives an indirect benefit.”¹²

Similarly, Georgia’s Blaine Amendment provides, “No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution.” The Georgia Supreme Court upheld a commercial lease agreement in which a public school system leased church space for a kindergarten annex in order to eliminate school overcrowding. The court referred to the rental contract as “an arms-length, commercial agreement with a sectarian institution to accomplish a non-sectarian purpose ... [where the public school] merely leased classroom space from the church so it could establish and run a public kindergarten in a non-sectarian environment.”¹³

Private pre-k providers that participate in state-funded, high quality pre-k programs are subject to comprehensive state regulation and operate under contract with a public entity to provide an important public function — preparing the state’s young children for school success. A significant level of program control rests with the state in the form of mandated licensure or accreditation standards, mandated program quality standards, state monitoring and supervision, and state budgeting protocols. Well-structured and highly regulated state pre-k programs will substantially circumscribe any control exercised by religious institutions.

Safeguards and Precautions to Ensure Constitutionality

Most states with a pre-k program are already successfully partnering with and funding faith-based organizations.¹⁴ With careful design, other states can similarly include faith-based organizations in their pre-k delivery system.

States need to implement practical regulatory guidance in some form to ensure that all their pre-k program providers — not merely the faith-based ones — keep within state and federal constitutional limitations on religious practices.¹⁵ Three types of safeguards will generally be required:

- (1) prohibitions against religious activities and materials,
- (2) prohibitions against religious discrimination in employment and access, and
- (3) budgetary restrictions to hold providers accountable for using state funds only for secular purposes.

Budgetary restrictions and accountability measures are not only needed in states with Blaine Amendments; they also serve as Establishment Clause protections. As discussed above, when children in the program are primary beneficiaries of the government funds, and sectarian organizations derive only incidental benefits (if any) from those funds, it provides substantial evidence that the government is not endorsing or advancing religion in violation of the Establishment Clause.

Secularity and Neutrality: No Religious Materials or Activities

Many states incorporate constitutional safeguards into their pre-k program regulations, guidelines, and grant agreements to ensure faith-based providers use state funds for “secular services for secular purposes on a religion-neutral basis.”¹⁶

Ideally, pre-k programs in a faith-based setting should, at a minimum, adhere to guidelines similar to those outlined in ***Connecticut’s School Readiness Program***.¹⁷

1. The program must be open to all children, and cannot exclude a child based on the family’s religious creed or lack thereof;
2. The program cannot be used to proselytize or attempt to persuade or convert children or their families to religion or a particular religious persuasion;
3. The program may not contain religious observances, such as prayer, grace, confession, church attendance, religious instruction, etc.;
4. The program must accommodate the practice of a child or staff member’s personal religious beliefs where the practice is required during program hours; e.g., Islamic designated time for prayers;

5. The program may not require children or their families to participate in faith-based or church sponsored activities or services which are not part of the school readiness program;
6. Programs may not discriminate in hiring based on religious affiliation or lack of religious affiliation; and
7. Unless it is not practicable, classes should be conducted in rooms that are free of religious symbols and other religious items.

Connecticut specifies that the program provided in the faith-based setting must be non-religious as a whole: “It is not enough to allow students or their families to ‘opt out’ of portions of the program which are religious in nature.”

State administrative regulations for the ***Kentucky Preschool Program***¹⁸ ensure compliance with the state Blaine Amendment mandate that no state funds “shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school” by requiring faith-based providers to establish separate pre-k program organizational and governance structures:

Section 4 (Interagency agreements)

State preschool funds may be used in a private program if a signed contract or cooperative agreement is on file in the district which documents that:

- (a) The program is separately incorporated from a religious institution;
- (b) The program maintains a nonsectarian board of directors;
- (c) All proceeds and debts are the property of that corporation;
- (d) The program pays reasonable rent; and
- (e) The program’s curriculum is not religious in nature.

Some states’ pre-k program guidelines allow faith-based providers to use state funds only for a separate, non-religious, and secular part of the day that is distinct from any religious teachings or practices carried out during other parts of the day.

Georgia Pre-K Program Operating Guidelines require:

. . .No part of the Pre-K day may be religious in nature. A “moment of silence” is an acceptable practice at mealtimes.

. . .Religious instruction, activities, and materials are not used during the instructional day.

Alabama Pre-k Program Operating Guidelines similarly state:

. . .No part of the day may be religious in nature. A moment of silence is acceptable. Activities religious in nature must take place outside of the 6.5-hour school day.

North Carolina More at Four Pre-k Program Guidelines and Requirements provide that faith-based providers must refrain from directing religious teachings and practices to children who are recipients of state More at Four funding:

Religious Activities in Child Care Centers that accept More at Four Funding

If a child care center accepts funding from *More at Four*, then to be consistent with various judicial decisions, during the time the center is offering *More at Four* programs, staff activities or communications which promote religious beliefs or activities cannot be directed towards *More at Four* participants. This includes but is not limited to worship services, teacher-led prayer, or religious instruction. Furthermore, various court rulings suggest that *More at Four* participants must be insulated from religious communications or activities that may occur in other parts of the center during that time. *More at Four* participants shall not be prevented from engaging in their personal religious practices, provided those practices are not initiated by center staff and do not disrupt the instructional environment.

New Jersey Abbott Preschool Educational Program Contract, ¶ IX¹⁹ states:

The Provider agrees that the educational program offered will comply with all federal, state and local laws and regulations regarding the secular nature of programs receiving public funding. It is understood that violation of this provision shall be a basis for termination. . .

The ***Federal Government*** has promulgated regulations that govern the religious activities of faith-based organizations (FBOs) receiving federal grant money. The regulations can be adapted for state-funded pre-k programs as well:

Organizations that receive direct financial assistance from the Department [of Health and Human Services] under any Department program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.²⁰

Other Federal guidance for FBOs has specified further limitations on the use of religious materials:²¹

Eliminate all religious materials from the presentation of the federally funded ... program. This includes:

- Bibles [or other books of worship];
- Registration materials that include religious inquiries or references;
- Follow up activities that include or lead to religious outreach; and
- Religious content in materials.²²

Antidiscrimination Restrictions

Faith-based pre-k providers should follow **Connecticut's** example of allowing all children access, without consideration of “the family’s religious creed or lack thereof,” and refraining from employment discrimination “based on religious affiliation or lack of religious affiliation.”²³ Programs need to be sure they comply with their state’s civil rights laws regarding religious discrimination in employment and public accommodation.

Federal regulations also require that FBOs “shall not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.”²⁴ The Federal Government advises FBOs not to limit “advertising the grant program services exclusively to religious target populations.”²⁵ Federal regulation *does* permit FBOs to discriminate based on faith for employment

purposes, unless a specific program contains a statutory prohibition against such discrimination.²⁶ It is important to remember that federal regulation applies to potential church-state conflicts under the Establishment Clause of the U.S. Constitution; discrimination against potential employees on the basis of religion would likely violate a state Blaine amendment, since it is an indicator of a school's religious purpose.

Monitoring and Budgetary Restrictions

Budget restrictions are necessary to ensure that a faith-based provider receives no enrichment beyond the costs of providing the pre-k program. This guarantees that the public funds are not flowing to the sectarian institution or a school it operates. The basic rule is that materials, equipment, and services paid for with state funds should only be used in the state pre-k program. If also used in other programs, costs should be allocated.

The ***New York Universal Pre-K Program (UPK)***, especially as implemented in New York City, provides a good example of adequate budget regulations. Although New York has a restrictive Blaine Amendment in its constitution, these protections incorporated into UPK allow the program to be offered by faith-based providers without violating anyone's religious liberties.

District monitoring and oversight of provider operations are key elements of UPK, and each school district implements the state regulations through its own rules, guidelines, and contract requirements established for its local UPK providers. Through this regulatory scheme, the state and its agencies control the expenditure of state UPK funds and the delivery of UPK services to an extraordinary degree. *New York City's UPK* governance documents demonstrate the typical breadth and depth of a district's oversight and control of the program.²⁷ Specific safeguards include the following:

Expenditure Guide: New York City publishes an Expenditure Guide for UPK providers that “sets forth the guidelines that will be applied in determining whether UPK costs will be reimbursed by the [NYC Education] Department.” UPK providers are reimbursed only for the actual costs of providing the program, which must be “reasonable, ordinary, necessary, related to the education program, and properly

documented.” The 24-page Expenditure Guide specifies the allowable costs for compensation, transportation, food, administrative costs, instructional supplies, and many other categories. Two aspects of this guide are significant for ensuring that state funds are spent only to benefit children, and not to benefit the faith-based or non-public entity:

1. *Allocation*: Where materials or services are utilized by other programs run by the entity, the costs are allocated by one of the following methods, depending on the type of material, expense, or service: the number of hours the UPK program is run, the square footage used by the UPK classroom, or the number of children in the UPK program.
2. *Actual Costs*: The allowable cost for a reimbursable expense is typically the actual direct cost or the net price (i.e., no overhead or profit to the provider is allowed).

Auditor General’s FAQs: According to the Auditor General’s UPK FAQs, provider agreements require equipment purchased with UPK funds to be labeled PROPERTY OF DOE — UPK PROGRAM. This is further evidence that state funds are being used only to benefit the children, not the faith-based entity.²⁸

Pre-k Instructional Review: Twice a year, every public and community-based UPK provider in New York City is visited by the Regional Early Childhood Education Team to review each site’s implementation of the UPK curriculum and other program elements, including comprehensive services, staff qualifications, safety plans, facility requirements, etc. The site review is thorough and comprehensive: The classroom review checklist has 108 items; the program review checklist has about 70 items.

The city also audits each provider on an annual basis.

Pennsylvania’s pre-k statute requires reporting, monitoring, and auditing procedures to ensure the funds flow only to permitted uses,²⁹ and the **guidelines** limit the use of state grant funds to

. . .expenditures directly related to improving student achievement, including but not limited to: learning materials and resources; instruction (including salaries and benefits, where permitted); . . .professional

development (including coaching); technical assistance; strategic partnerships with community organizations, universities and parents and direct services to students.³⁰

Budgetary guidance in the guidelines includes specific categories of allowable costs for services, instruction, and materials.

Federal Budget Guidance. The Federal Government has also stressed the importance of cost allocation to insulate public funds from being used for religious activities. The Department of Health and Human Services (HHS) now requests that FBOs “[d]emonstrate that federal funds are only being used for the federally funded . . . program.”³¹ HHS offers the following practical suggestions:

- Implement the use of time sheets that keep track of all staff hours charged to the federally funded grant, whether the staff work in other programs or not.
- Require any staff working in both federally funded programs and other programs to clearly indicate how many hours are spent on each program.
- If any staff members work on both a federally funded program and a non-federally funded program at the same site on the same day, require the staff to clearly indicate not only how many hours are spent on the federal program but also which specific hours are spent on the federal program. The hours should reflect that time spent on any program with religious content have been completely separated from hours spent on the federally funded program.
- Show cost allocations for all items and activities that involve both programs such as staff time, equipment, or other expenses such as travel to event sites. This may be accomplished through such means as:
 - Example: if transportation is used to go to a site where a federally funded program is conducted and a religious or non-religious program funded through other means is also conducted by the grantee at the same site, one half of the travel costs (gas, lodging, etc.) should be charged to the federal program. If three separate and distinct programs are conducted at a site by a federally funded grantee and one of them is the federally

funded program, only one third of the travel costs should be charged to the federal program, etc.

- Example: if an electronic device is used 30% of the time for the federally funded program, this should be demonstrated through clear record keeping. Only 30% of the cost of the electronic device should be charged to the program.³²

Regulations from the Office of Management and Budget provide further guidance on principles and methods of allocating costs incurred by a religiously-affiliated organization and shared by a publicly funded program and other programs run by the organization.³³

The Free Exercise of Religion

In addition to requiring the separation of church and state, the First Amendment to the U.S. Constitution also guarantees religious freedom. Historically, most states have exempted faith-based child care centers and preschools from the usual licensure and regulatory schemes on the basis of religious liberty.³⁴ State-funded pre-k presents an entirely different set of concerns, however, because public funds are involved. Some may charge that a state pre-k program discriminates against religious schools by imposing requirements on schools previously exempt from regulation, but no legal doctrine or theory requires the state to fund pre-k providers that are unwilling to comply with program standards intended to achieve that state's goal of preparing pre-k children for future success in school. As long as state licensure, accreditation, and program regulations are related to the goals of the state pre-k program and applied neutrally to all providers, claims of discrimination are unsupported.

No state that offers a public pre-k program exempts participating faith-based providers from meeting all program quality and programmatic standards. To do so would clearly undermine the state's goal of providing quality programs that prepare young children to enter kindergarten ready to learn. Some states have explicitly addressed the legal exemptions often afforded to faith-based early childhood programs

by holding these providers to the same (or substantially similar) high standards of licensure or accreditation. For example,

- In **Alabama**, child care facility licensing laws generally do “not apply to preschool programs which are an integral part of a local church ministry or a religious nonprofit elementary school[.]”³⁵ Nevertheless, the state’s Pre-k Program requires that potential providers “[h]old [a] current license from the Department of Human Resources.”³⁶
- In **Arkansas**, churches that are exempt from the state income tax are also exempt from licensure requirements for child care facilities,³⁷ but the specific regulations governing the state’s Arkansas Better Choice pre-k program require that any eligible child care provider be “[l]icensed by DCCECE as a Child Care Center or Child Care Family Home with no history of formal corrective action or founded complaints which pose an immediate safety risk within 12 months of application date OR [be] licensable.”³⁸
- In **Louisiana**, certain faith-based part-time child care centers are exempt from licensure by the Department of Social Services.³⁹ Despite this limited licensure exemption, every faith-based provider wishing to participate in the Louisiana’s Nonpublic Schools Early Childhood Development Program (NSECD) must certify “[t]hat the school is ... approved, provisionally approved, or probationally approved by BESE [State Board of Elementary and Secondary Education] as being compliant with Bulletin 741 [Louisiana Handbook for Nonpublic School Administrators] for nonpublic schools.”⁴⁰

Faith-based providers may sometimes be resistant to state pre-k initiatives due to the perceived burdens and expenses of complying with all the state quality requirements. States can alleviate these concerns to some degree by providing additional funds, training, technical assistance, and other incentives that would enable all community providers — not just the religious community — to meet all quality standards and participate in the program.

Conclusion

Faith-based organizations are vital partners in state efforts to increase access to high quality pre-k programs. Nevertheless, because of constitutional provisions respecting the separation of church and state and freedom of religion, specific laws, rules, and guidelines may be required to ensure that public funding and management of these programs complies with both federal and state constitution principles.

As discussed, state constitutions differ and the law in this area is evolving, but in general, faith-based organizations can receive state funding without constitutional conflict, so long as the program itself is strictly secular and state monies do not enrich or further the purposes of the religious institution. Furthermore, as long as a state applies licensure and program regulations to all pre-k providers in a neutral manner, and those regulations are related to the goals of the pre-k program, claims of interference with the Free Exercise clause cannot be sustained.

This policy brief was written by Dan Goldman and Ellen Boylan, attorneys at Education Law Center, with support from the Pew Charitable Trusts.

About Education Law Center

Founded in 1973, ELC is recognized as one of the nation's premier education advocacy organizations working on behalf of public school children for access to an equal and adequate education under state and federal laws. ELC focuses on improving public education for disadvantaged children, and children with disabilities and other special needs using multiple strategies, including public education and engagement, policy initiatives, research, communications and legal action.

ELC has achieved significant success in improving education for school children in New Jersey's high poverty urban school districts through implementation of the programs and reforms ordered by the New Jersey Supreme Court in the landmark *Abbott v. Burke* education equity case.

In addition, because of its expertise in school finance, preschool, and other areas of education law and policy, ELC provides support to attorneys and advocates in other states seeking to improve their public schools.

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Endnotes

- 1 The National Institute for Early Education Research has identified the following minimum indicators of a high quality pre-k program:(1) Comprehensive early learning standards, (2) BA degrees for lead teachers, (3) Specialized training for teachers in pre-k, (4) CDA (Child Development Associate credential) or equivalent degrees for assistant teachers, (5) At least 15 hours/year of teacher in-service training, (6) Maximum class size of 20 or lower, (7) Staff-child ratio of 1:10 or better, (8) Required vision, hearing, & health screening/referral and at least 1 support service, (9) At least one meal/day, and (10) Required monitoring through site visits. Barnett, Hustedt, Hawkinson, & Robin, *The State of Preschool 2008: State Preschool Yearbook* (National Institute for Early Education Research, 2009) (cited here as “State Preschool Yearbook 2008”), at 11.
- 2 U.S. Const. amend. I. The First Amendment also prohibits Congress and the states from enacting laws that interfere with the free exercise of religion. The two religion provisions in the First Amendment are known as the Establishment Clause and the Free Exercise Clause.
- 3 *Agostini v. Felton*, 21 U.S. 203 (1997).
- 4 *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1, 10 (1993).
- 5 *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819, 843-844 (1995).
- 6 45 C.F.R. § 87.1, 45 C.F.R. § 87.2, 2 C.F.R. Part 230 — Cost Principles for Non-Profit Organizations.
- 7 *Saint Louis University v. Masonic Temple Ass’n of St. Louis* (Sup. 2007) 220 S.W.3d 721.
- 8 *Gerhardt v. Heid*, 66 N.D. 444, 267 N.W. 127 (1936).
- 9 *Board of Ed. of Cent. School Dist. No. 1 v. Allen*, 20 N.Y.2d 109, 116, 228 N.E.2d 791, 804 (1967), *aff’d* 88 S.Ct. 1923, 392 U.S. 236, 20 L.Ed.2d 1060 (1968).
- 10 *Springfield School Dist., Delaware County v. Department of Ed.*, 483 Pa. 539, 571, 397 A.2d 1154, 1171, *app. dismissed sub nom. School District of Pittsburgh v. Pennsylvania Department of Education*, 443 U.S. 901, 99 S.Ct. 3091, 61 L.Ed.2d 869 (1979).
- 11 *Sheldon Jackson College v. State*, 599 P.2d 127 (1979).
- 12 *State ex rel. Creighton Univ. v. Smith*, 217 Neb. 682, 353 N.W.2d 267 (1984).
- 13 *Taetle v. Atlanta Independent School System*, 2006, 280 Ga. 137, 625 S.E.2d 770.
- 14 See Schumacher, Ewen, Hart, & Lombardi, “All Together Now: State Experiences in Using Community-Based Child Care to Provide Pre-Kindergarten,” (Center for Law and Social Policy, 2005); *State Preschool*

Yearbook 2008, at 203 (Appendix A) (reporting that in 35 of the 38 states that fund a pre-k program, “faith-based” providers are eligible to participate.)

15 Guidance should be specific. For example, *Colorado Preschool & Kindergarten Program: 2006-07 Handbook* at 36, does not provide sufficient guidance: “[Q.] Can we contract with a church based program? [A.] Sections 7 and 8 of Article IX of the Constitution of the State of Colorado address the subject. ... If you have questions after reading the language of the Constitution, show this to your attorney for a professional interpretation.”

16 *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819, 843-844 (1995).

17 Connecticut School Readiness Program, School Readiness Alert SR-02-02.

18 704 K.A.R. § 3:410.

19 The Abbott program contract is available at <http://www.state.nj.us/education/ece/abbott/contract.pdf>.

20 45 C.F.R. § 87.1(c); 45 C.F.R. § 87.2(c).

21 Caution should be exercised when using the federal FBO guidance, since criticism has been leveled at some aspects that might not survive Supreme Court scrutiny under the Establishment Clause. For example, Establishment Clause cases bar funding of activities with significant religious content, even where they would not meet the regulations’ description of “inherently religious activities.” See Lupu & Tuttle, “The State of the Law 2004: Partnerships Between Government and Faith-Based Organizations” (Roundtable on Religion and Social Welfare Policy, December 2004) at 72-73.

22 These safeguards come from a document incorporated into a Settlement Agreement in *American Civil Liberties Union of Massachusetts v. Leavitt* (D.Mass. Feb. 21, 2006), Docket No. Civ. A. No. 05-11000 (JTL), involving a federally funded abstinence education program provided by an FBO called “Silver Ring Thing,” (cited here as “Silver Ring Thing Settlement”) at 10.

23 Connecticut School Readiness Program, School Readiness Alert SR-02-02, *supra* n. 20.

24 45 C.F.R. § 87.1(e); 45 C.F.R. § 87.2(e).

25 Silver Ring Thing Settlement, *supra* n. 47, at 11.

26 45 C.F.R. § 87.1(g), 45 C.F.R. § 87.2(g).

27 The New York City documents are available for downloading at <http://schools.nyc.gov/Offices/DCP/ProfessionalServices/UniversalPreKInformation/Default.htm>.

28 See *Mitchell v. Helms*, 530 U.S. 793, 849, 120 S.Ct. 2530, 2563, 147 L.Ed.2d 660 (2000) (O’Connor, J., concurring) (finding that it was a significant factor that public school districts implementing a Title II program in faith-based schools would “retain title to the materials and equipment”).

29 24 P.S. § 2599.2(e).

30 Pennsylvania Department of Education, Accountability Block Grant 2007-2008
Guidelines and Information at 13.

31 See Silver Ring Thing Settlement, *supra* n. 24, at 10.

32 *Id.*

33 2 C.F.R. Part 230, Appendix A, A(4) — Allocable Costs.

34 In Pennsylvania, for example, a faith-based nursery school does not require a
license: the Private Academic Schools Act exempts “schools or classes owned or
operated by or under the authority of bona fide religious institutions. . .,” although
“such schools may choose to apply for a license[.]” 24 P.S. § 6705.

35 Code of Alabama § 38-7-3.

36 Alabama Office of School Readiness, Pre-kindergarten Program RFP.

37 Ark. Code § 20-78-209. Even an exempt faith-based child care facility must verify
“that its facility has met the required fire, safety, and health inspections on an
annual basis and is in substantial compliance with published standards that
similar nonexempt child care facilities are required to meet.” Ark. Code § 20-78-
209(b)(1).

38 Code of Ark. Rules 005.24.001-5.1.

39 La. R.S. 14:1427(A).

40 Bulletin 741 is the comprehensive “Louisiana Handbook for Nonpublic School
Administrators,” setting forth standards and regulations governing every area of
school operation.

41 Finding Common Ground: Recommendations of the Working Group on Human
Needs and Faith-Based and Community Initiatives, at 32 (2002).

42 The U.S. Supreme Court has held that voucher programs that include religious
schools may pass muster under the Establishment Clause, as long as “[the}
government aid program is neutral with respect to religion, and provides
assistance directly to a broad class of citizens who, in turn, direct government aid
to religious schools wholly as a result of their own genuine and independent
private choice[.]” *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. Ct. 2460, 153
L.Ed.2d 604 (2002). See also 45 C.F.R. § 87.1(j); 45 C.F.R. § 87.2(j) (no
restrictions on “inherently religious activities” for faith-based organizations
receiving federal funds through a voucher program).

Appendix A: State Constitution Religion Provisions and Participation of Faith-Based Pre-K Providers

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|---------------|--|---|---|--|
| United States | Amend. I Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof... | | | |
| Alabama | <p>Art. I, § 3 That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship; nor to pay any tithes, taxes, or other rate for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this state; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.</p> <p>Amend. 622, Alabama Religious Freedom Amendment.</p> <p>§ V. (a) Government shall not burden a person's freedom of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).</p> <p>(b) Government may burden a person's freedom of religion only if it demonstrates that application of the burden to the person:</p> <ul style="list-style-type: none"> (1) Is in furtherance of a compelling governmental interest; and (2) Is the least restrictive means of furthering that compelling governmental interest. <p>(c) A person whose religious freedom has been burdened in violation of this section may assert that violation as a claim or defense in a judicial, administrative, or other proceeding and obtain appropriate relief against a government.</p> | <p>Art. XIV, § 263</p> <p>No money raised for the support of the public schools shall be appropriated to or used for the support of any sectarian or denominational school.</p> | Yes | |
| Alaska | Art. 1, § 4 No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. | Art. 7, § 1 The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution. | No program | |
| Arizona | Art. 2, § 12 The liberty of conscience secured by the provisions of this constitution shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, | Art. XI, § 7 No sectarian instruction shall be imparted in any school or state educational institution that may be established under this Constitution, | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|------------|--|---|---|--|
| | exercise, or instruction, or to the support of any religious establishment. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror in consequence of his opinion on matters of religion, nor be questioned touching his religious belief in any court of justice to affect the weight of his testimony. | and no religious or political test or qualification shall ever be required as a condition of admission into any public educational institution of the state, as teacher, student, or pupil; but the liberty of conscience hereby secured shall not be so construed as to justify practices or conduct inconsistent with the good order, peace, morality, or safety of the state, or with the rights of others. | | |
| Arkansas | <p>Art. 2, § 24</p> <p>All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can, of right, be compelled to attend, erect, or support any place of worship; or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given, by law, to any religious establishment, denomination or mode of worship, above any other.</p> <p>Art. 2, § 25</p> <p>Religion, morality and knowledge being essential to good government, the General Assembly shall enact suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship.</p> | | Yes | |
| California | <p>Art. 1, § 4</p> <p>Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion. A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.</p> | <p>Art. 9, § 8 No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.</p> <p>Art. 16, § 5 Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution 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 city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Art. XVI [hospitals, orphanages, aid to the blind & disabled].</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|---------------------------|---|--|---|--|
| <p>Colorado</p> | <p>Art. II, § 4</p> <p>The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.</p> | <p>Art. IX, § 7</p> <p>Neither the general assembly, nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money or other personal property, ever be made by the state, or any such public corporation to any church, or for any sectarian purpose.</p> <p>Art. IX, § 8</p> <p>No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as a teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatsoever. No sectarian tenets or doctrines shall ever be taught in the public school, nor shall any distinction or classification of pupils be made on account of race or color, nor shall any pupil be assigned or transported to any public educational institution for the purpose of achieving racial balance.</p> | <p>Yes</p> | <p>Yes</p> |
| <p>Connecticut</p> | <p>Art. 1, § 3</p> <p>The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in the state; provided, that the right hereby declared and established, shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the state.</p> <p>Art. 7 It being the right of all men to worship the Supreme Being, the Great Creator and Preserver of the Universe, and to render that worship in a mode consistent with the dictates of their consciences, no person shall by law be compelled to join or support, nor be classed or associated with, any congregation, church or religious association. No preference shall be given by law to any religious society or denomination in the state. Each shall have and enjoy the same and equal powers, rights and privileges, and may support and maintain the ministers or teachers of its society or denomination, and may build and repair houses for public worship.</p> | | <p>Yes</p> | <p>Yes</p> |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|----------------------|---|---|---|--|
| Delaware | <p>Art. I, §1</p> <p>Although it is the duty of all men frequently to assemble together for the public worship of Almighty God; and piety and morality, on which the prosperity of communities depends, are hereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship, nor a preference given by law to any religious societies, denominations, or modes of worship.</p> | <p>Art. X, §3</p> <p>No portion of any fund now existing, or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated to, or used by, or in aid of any sectarian, church or denominational school; provided, that all real or personal property used for school purposes, where the tuition is free, shall be exempt from taxation and assessment for public purposes.</p> | Yes | Yes |
| District of Columbia | [None] | <p>D.C. Code § 44-715</p> <p>It is hereby declared to be the policy of the government of the United States to make no appropriation of money or property for the purpose of founding, maintaining, or aiding by payment for services, expenses, or otherwise, any church or religious denomination, or any institution or society which is under sectarian or ecclesiastical control; and no money appropriated for charitable purposes in the District of Columbia shall be paid to any church or religious denomination, or to any institution or society which is under sectarian or ecclesiastical control.</p> | No [public schools operate all pre-k programs and do not contract with community providers] | |
| Florida | <p>Art. I, § 3</p> <p>There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. ...</p> | <p>Art. I, § 3</p> <p>... No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.</p> | Yes | |
| Georgia | <p>Art. 1, § 1</p> <p>Paragraph III. Freedom of conscience. Each person has the natural and inalienable right to worship God, each according to the dictates of that person's own conscience; and no human authority should, in any case, control or interfere with such right of conscience.</p> <p>Paragraph IV. Religious opinions; freedom of religion. No inhabitant of this state shall be molested in person or property or be prohibited from holding any public office or trust on account of religious opinions; but the right of freedom of religion shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state.</p> | <p>Art. 1, § 2</p> <p>Paragraph VII. No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution.</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|--------|---|---|---|--|
| Hawaii | <p>Art. 1, § 4</p> <p>No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof...</p> | <p>Art. 10, § 1</p> <p>The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or nonsectarian private educational institution, except that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist:</p> <ol style="list-style-type: none"> 1. Not-for-profit corporations that provide early childhood education and care facilities serving the general public; and 2. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities. | No program | |
| Idaho | <p>Art. I, § 4</p> <p>The exercise and enjoyment of religious faith and worship shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, or excuse acts of licentiousness or justify polygamous or other pernicious practices, inconsistent with morality or the peace or safety of the state; nor to permit any person, organization, or association to directly or indirectly aid or abet, counsel or advise any person to commit the crime of bigamy or polygamy, or any other crime. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination, or pay tithes against his consent; nor shall any preference be given by law to any religious denomination or mode of worship. Bigamy and polygamy are forever prohibited in the state, and the legislature shall provide by law for the punishment of such crimes.</p> <p>Art. XXI, § 19</p> <p>It is ordained by the state of Idaho that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property on account of his or her mode of religious worship. ...</p> | <p>Art. IX, § 5</p> <p>Neither the legislature nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the state, or any such public corporation, to any church or for any sectarian or religious purpose; provided, however, that a health facilities authority, as specifically authorized and empowered by law, may finance or refinance any private, not for profit, health facilities owned or operated by any church or sectarian religious society, through loans, leases, or other transactions.</p> <p>Art. IX, § 6.</p> <p>No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian or religious tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or</p> | No program | |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|-----------------|---|---|---|--|
| | | classification of pupils be made on account of race or color. No books, papers, tracts or documents of a political, sectarian or denominational character shall be used or introduced in any schools established under the provisions of this article, nor shall any teacher or any district receive any of the public school moneys in which the schools have not been taught in accordance with the provisions of this article. | | |
| Illinois | Art. 1, § 3 The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship. | Art. 10, § 3 Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose. | Yes | Yes |
| Indiana | Art. 1 § 2. All people shall be secured in the natural right to worship ALMIGHTY GOD, according to the dictates of their own consciences. § 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience. § 4. No preference shall be given, by law, to any creed, religious society, or mode of worship; and no person shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent. | Art. 1, § 6 No money shall be drawn from the treasury, for the benefit of any religious or theological institution. | No program | |
| Iowa | Art. 1, § 3 The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister, or ministry. | Art. 1, § 3 ... nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister, or ministry. | Yes | Yes |
| Kansas | Kansas Bill of Rights, § 7 The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any elections, nor shall any person be incompetent to testify on account of religious belief. | Art. 6, § 6 ... (c) No religious sect or sects shall control any part of the public educational funds. | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|-----------|--|---|---|--|
| Kentucky | <p>§ 5</p> <p>No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience.</p> | <p>§ 189</p> <p>No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.</p> | Yes | Yes |
| Louisiana | <p>Art. 1, § 8</p> <p>No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof.</p> | | Yes | Yes |
| Maine | <p>Art. 1, § 3 All individuals have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no person shall be hurt, molested or restrained in that person's liberty or estate for worshipping God in the manner and season most agreeable to the dictates of that person's own conscience, nor for that person's religious professions or sentiments, provided that that person does not disturb the public peace, nor obstruct others in their religious worship; -- and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.</p> | | No | |
| Maryland | <p>Declaration of Rights, Art. 36.</p> <p>That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; nor ought any person to be compelled to frequent, or maintain, or contribute, unless on contract, to maintain,</p> | | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|---------------|--|---|---|--|
| | <p>any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that under His dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor either in this world or in the world to come.</p> <p>Nothing shall prohibit or require the making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place.</p> <p>Nothing in this article shall constitute an establishment of religion.</p> | | | |
| Massachusetts | <p>Pt. 1, Art. II</p> <p>It is the right as well as the duty of all men in society, publicly, and at stated seasons to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.</p> <p>Articles of Amendment, Art. XI</p> <p>... all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.</p> <p>Articles of Amendment, Art. XLVI</p> <p>§ 1. No law shall be passed prohibiting the free exercise of religion.</p> | <p>Articles of Amendment, Art. XLVI, § 2</p> <p>No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any infirmary, hospital, institution, primary or secondary school, or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents authorized by the Commonwealth or federal authority or both, ... and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.</p> | Yes | |
| Michigan | <p>Art. 1, § 4</p> <p>Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.</p> | <p>Art. 1, § 4</p> <p>... No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. ...</p> <p>Art. 8, § 2</p> <p>... No public monies or property shall be appropriated or paid or any public credit utilized, by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | | deductions, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school or at any location or institution where instruction is offered in whole or in part to such nonpublic school students. The legislature may provide for the transportation of students to and from any school. | | |
| Minnesota | <p>Art. 1, § 16</p> <p>The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.</p> | <p>Art 13, § 2</p> <p>In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.</p> | Yes | Yes |
| Mississippi | <p>Art. 3, § 18 No religious test as a qualification for office shall be required; and no preference shall be given by law to any religious sect or mode of worship; but the free enjoyment of all religious sentiments and the different modes of worship shall be held sacred. The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the state, or to exclude the Holy Bible from use in any public school of this state.</p> | <p>Art. 8, § 208</p> <p>No religious or other sect or sects shall ever control any part of the school or other educational funds of this state; nor shall any funds be appropriated toward the support of any sectarian school, or to any school that at the time of receiving such appropriation is not conducted as a free school.</p> | No program | |
| Missouri | <p>Art. 1, § 5</p> <p>That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no human authority can control or interfere with the rights of conscience; that no person shall, on account of his religious persuasion or belief, be rendered ineligible to any public office or trust or profit in this state, be disqualified from testifying or serving as a juror, or be molested in his person or estate; but this section shall not be construed to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of the state, or with the rights of others.</p> <p>Art. 1, § 7</p> <p>That no money shall ever be taken from the public treasury, directly or indirectly,</p> | <p>Art. 1, § 7</p> <p>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</p> <p>Art. 9, § 8</p> <p>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</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | 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. | 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. | | |
| Montana | <p>Art. 2, § 5</p> <p>The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.</p> | <p>Art 10, § 6</p> <p>(1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.</p> <p>(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.</p> <p>§ 7. Nondiscrimination in education. No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.</p> | No program | |
| Nebraska | <p>Art. 1, § 4.</p> <p>All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious beliefs; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.</p> | <p>Art. 7, § 11</p> <p>Notwithstanding any other provision in the Constitution, appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof; PROVIDED, that the Legislature may provide that the state or any political subdivision thereof may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide for educational or other services for the benefit of children under the age of twenty-one years who are handicapped, as that term is from time to time defined by the Legislature, if such services are nonsectarian in nature.</p> <p>All public schools shall be free of sectarian instruction.</p> <p>The state shall not accept money or property to be used for sectarian purposes; PROVIDED, that the Legislature may provide that the state may receive money from the federal government and distribute it in accordance with the terms of any such federal grants, but no public</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | | <p>funds of the state, any political subdivision, or any public corporation may be added thereto.</p> <p>A religious test or qualification shall not be required of any teacher or student for admission or continuance in any school or institution supported in whole or in part by public funds or taxation.</p> | | |
| Nevada | <p>Art. 1, § 4</p> <p>The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State, and no person shall be rendered incompetent to be a witness on account of his opinions on matters of his religious belief, but the liberty of conscience hereby secured, shall not be so construed, as to excuse acts of licentiousness or justify practices inconsistent with the peace, or safety of this State.</p> | <p>Art. 11, § 2</p> <p>... 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</p> <p>§ 9. No sectarian instruction shall be imparted or tolerated in any school or University that may be established under this Constitution.</p> <p>§ 10. No public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purpose.</p> | Yes | |
| New Hampshire | <p>Bill of Rights, Art. 5</p> <p>Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained, in his peers on, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession, sentiments, or persuasion; provided he doth not disturb the public peace or disturb others in their religious worship.</p> <p>Art. 6</p> <p>As morality and piety, rightly grounded on high principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society, therefore, the several parishes, bodies, corporate, or religious societies shall at all times have the right of electing their own teachers, and of contracting with them for their support or maintenance, or both. But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination. And every person, denomination or sect shall be equally under the protection of the law; and no subordination of any one sect, denomination or persuasion to another shall ever be established.</p> | <p>Bill of Rights, Art. 6</p> <p>... But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination.</p> <p>Pt. 2, art. 83</p> <p>... Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination.</p> | No program | |
| New Jersey | <p>Art. 1, § 3. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretense whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to</p> | <p>Art. 1, § 3</p> <p>... nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | <p>pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right or has deliberately and voluntarily engaged to perform.</p> <p>Art. 1, § 4. There shall be no establishment of one religious sect in preference to another; no religious or racial test shall be required as a qualification for any office or public trust.</p> <p>Art. 1, § 5. No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin.</p> | <p>believes to be right or has deliberately and voluntarily engaged to perform.</p> | | |
| New Mexico | <p>Art. 2, § 11</p> <p>Every man shall be free to worship God according to the dictates of his own conscience, and no person shall ever be molested or denied any civil or political right or privilege on account of his religious opinion or mode of religious worship. No person shall be required to attend any place of worship or support any religious sect or denomination; nor shall any preference be given by law to any religious denomination or mode of worship.</p> | <p>Art. 12, § 3</p> <p>The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.</p> | Yes | Yes |
| New York | <p>Art. 1, § 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all humankind; and no person shall be rendered incompetent to be a witness on account of his or her opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.</p> | <p>Art. 11, § 3. Neither the state nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning.</p> | Yes | Yes |
| North Carolina | <p>Art. 1 § 13 All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.</p> | | Yes | |
| North Dakota | <p>Art. 1, § 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify</p> | <p>Art. 8, § 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North</p> | No program | |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | <p>practices inconsistent with the peace or safety of this state.</p> <p>Art. 13, § 1. Perfect toleration of religious sentiment must be secured, and no inhabitant of this state may ever be molested in person or property on account of that person's mode of religious worship.</p> | <p>Dakota and free from sectarian control. ...</p> <p>Art. 8, § 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.</p> | | |
| Ohio | <p>Art. 1, § 7</p> <p>All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.</p> | <p>Art. 6, § 2</p> <p>The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.</p> | Yes | Yes |
| Oklahoma | <p>Art. 1, § 2</p> <p>Perfect toleration of religious sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of civil or political rights. Polygamous or plural marriages are forever prohibited.</p> | <p>Art. 1, § 5 Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control; and said schools shall always be conducted in English: Provided, that nothing herein shall preclude the teaching of other languages in said public schools.</p> <p>Art. 2, § 5 No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.</p> | Yes | Yes |
| Oregon | <p>Art. 1, § 2</p> <p>All men shall be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences.</p> <p>§ 3. No law shall in any case whatever control the free exercise, and enjoyment of religious opinions, or interfere with the rights of conscience.</p> | <p>Art. 1, § 5 No money shall be drawn from the Treasury for the benefit of any religious, or theological institution, nor shall any money be appropriated for the payment of any religious services in either house of the Legislative Assembly.</p> | Yes | Yes |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| Pennsylvania | <p>Art. 1, § 3.</p> <p>All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship.</p> | <p>Art. 3, § 15.</p> <p>No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.</p> <p>§ 29.</p> <p>No appropriation shall be made for charitable, educational or benevolent purposes to any person or community nor to any denomination and sectarian institution, corporation or association: Provided, that appropriations may be made ... for assistance to mothers having dependent children ...</p> | Yes | Yes |
| Rhode Island | <p>Art. 1, § 3</p> <p>Whereas Almighty God hath created the mind free; and all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerable ancestors, in their migration to this country and their settlement of this state, was, as they expressed it, to hold forth a lively experiment that a flourishing civil state may stand and be best maintained with full liberty in religious concerns; we, therefore, declare that no person shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfillment of such person's voluntary contract; nor enforced, restrained, molested, or burdened in body or goods; nor disqualified from holding any office; nor otherwise suffer on account of such person's religious belief; and that every person shall be free to worship God according to the dictates of such person's conscience, and to profess and by argument to maintain such person's opinion in matters of religion; and that the same shall in no wise diminish, enlarge, or affect the civil capacity of any person.</p> | | No program | |
| South Carolina | <p>Art. 1, § 2. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.</p> | <p>Art. 11, § 4. No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution.</p> | Yes | Yes |
| South Dakota | <p>Art. 6, § 3</p> <p>The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of</p> | <p>Art. 6, § 3. ... No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.</p> <p>Art. 8, § 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or</p> | No program | |

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| | <p>the rights of others, or justify practices inconsistent with the peace or safety of the state.</p> <p>No person shall be compelled to attend or support any ministry or place of worship against his consent nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.</p> | <p>any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.</p> | | |
| Tennessee | <p>Art. 1, § 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.</p> | | Yes | Yes |
| Texas | <p>Art. 1, § 6 All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.</p> | <p>Art. 1, § 7</p> <p>No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.</p> <p>Art. 7, § 5</p> <p>... (c) ...The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. ...</p> | Yes | Yes |
| Utah | <p>Art. I, § 4</p> <p>The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment.</p> | <p>Art. I, § 4</p> <p>... No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment.</p> <p>Art. X, § 1</p> <p>The Legislature shall provide for the establishment and maintenance of the state's education systems including: (a) a public education system, which shall be open to all children of the state; and (b) a higher education system. Both systems shall be free from sectarian control.</p> <p>Art. X, § 8</p> <p>No religious or partisan test or qualification shall be required as a condition of employment, admission, or attendance in the state's</p> | No program | |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
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| | | <p>education systems.</p> <p>Art. X, § 9.</p> <p>Neither the state of Utah nor its political subdivisions may make any appropriation for the direct support of any school or educational institution controlled by any religious organization.</p> | | |
| Vermont | <p>Art. 3rd</p> <p>That all persons have a natural and unalienable right, to worship Almighty God, according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no person ought to, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of conscience, nor can any person be justly deprived or abridged of any civil right as a citizen, on account of religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be vested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship. Nevertheless, every sect or denomination of Christians ought to observe the sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.</p> | | Yes | Yes |
| Virginia | <p>Art. 1, § 16 That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.</p> | <p>Art. 4, § 16</p> <p>The General Assembly shall not make any appropriation of public funds, personal property, or real estate to any church or sectarian society, or any association or institution of any kind whatever which is entirely or partly, directly or indirectly, controlled by any church or sectarian society. Nor shall the General Assembly make any like appropriation to any charitable institution which is not owned or controlled by the Commonwealth; the General Assembly may, however, make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association.</p> <p>Art. 8, § 10</p> <p>No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof; provided, first, that the General Assembly may, and the governing bodies of the several counties, cities and towns may, subject to such limitations as may be imposed by the</p> | Yes | |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|-----------------------------|--|---|--|--|
| | | <p>General Assembly, appropriate funds for educational purposes which may be expended in furtherance of elementary, secondary, collegiate or graduate education of Virginia students in public and nonsectarian private schools and institutions of learning, in addition to those owned or exclusively controlled by the State or any such county, city or town; second, that the General Assembly may appropriate funds to an agency, or to a school or institution of learning owned or controlled by an agency, created and established by two or more States under a joint agreement to which this State is a party for the purpose of providing educational facilities for the citizens of the several States joining in such agreement; third, that counties, cities, towns, and districts may make appropriations to nonsectarian schools of manual, industrial, or technical training, and also to any school or institution of learning owned or exclusively controlled by such county, city, town, or school district.</p> | | |
| <p>Washington</p> | <p>Art. 1, § 11 Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment: PROVIDED, HOWEVER, That this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional, and mental institutions, or by a county's or public hospital district's hospital, health care facility, or hospice, as in the discretion of the legislature may seem justified. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.</p> | <p>Art. 1, § 11 ... No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment ...</p> <p>Art. 9, § 4 All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.</p> | <p>Wash. Rev. Code § 43.215.430. The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs...</p> | |
| <p>West Virginia</p> | <p>Art. 3, § 15. Religious freedom guaranteed. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened, in his body or goods, or otherwise suffer, on account of his religious opinions or belief, but all men shall be free to profess and by argument, to maintain their opinions in matters of religion; and the same shall, in nowise, affect, diminish or enlarge their civil capacities; and the Legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or</p> | | <p>Yes</p> | <p>Yes</p> |

| State | Establishment/Free Exercise Clauses | Education & Religion Clauses; "Blaine"/No-Aid Provisions | Faith-Based Programs Eligible To Participate In State Pre-K | State Education Dollars Fund Faith-Based Pre-K |
|-----------|--|---|---|--|
| | <p>pass any law requiring or authorizing any religious society, or the people of any district within this state, to levy on themselves, or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free for every person to select his religious instructor, and to make for his support, such private contracts as he shall please.</p> | | | |
| Wisconsin | <p>Art. 1, § 18 The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend, erect or support any place of worship, or to maintain any ministry, without consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.</p> | <p>Art. 10, § 3 The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours.</p> | Yes | Yes |
| Wyoming | <p>Art. 1, § 18 The free exercise and enjoyment of religious profession and worship without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to hold any office of trust or profit, or to serve as a witness or juror, because of his opinion on any matter of religious belief whatever; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state.</p> | <p>Art. 1, § 19. No money of the state shall ever be given or appropriated to any sectarian or religious society or institution.</p> <p>Art. 3, § 36. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.</p> <p>Art. 7, § 8. Provision shall be made by general law for the equitable allocation of such income among all school districts in the state. But no appropriation shall be made from said fund to any district for the year in which a school has not been maintained for at least three (3) months; nor shall any portion of any public school fund ever be used to support or assist any private school, or any school, academy, seminary, college or other institution of learning controlled by any church or sectarian organization or religious denomination whatsoever.</p> <p>Art. 7, § 12. No sectarian instruction, qualifications or tests shall be imparted, exacted, applied or in any manner tolerated in the schools of any grade or character controlled by the state, nor shall attendance be required at any religious service therein, nor shall any sectarian tenets or doctrines be taught or favored in any public school or institution that may be established under this constitution.</p> <p>Art. 21, § 28. The legislature shall make laws for the establishment and maintenance of systems of public schools which shall be open to all the children of the state and free from sectarian control.</p> | No program | |