

Colorado Constitution

Article IX Education

Section 7. Aid to private schools, churches, sectarian purpose, forbidden.

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.

Source: Entire article added, effective August 1, 1876, see **L. 1877**, p. 55.

Cross references: For religious freedom, see § 4 of article II of this constitution; for prohibition against appropriations to private institutions, see § 34 of article V of this constitution.

ANNOTATIONS

Law reviews. For article, "Blaine's Name in Vain?: State Constitutions, School Choice, and Charitable Choice", see 83 Denv. U.L. Rev. 57 (2005). For article "Colorado Supreme Court Continues to Evolve on School Vouchers and Standing", see 45 Colo. Law. 21 (Jan. 2016). For note, "Taxpayers for Public Education v. Douglas County School District: The School Choice Movement Soldiers On", see 89 U. Colo. L. Rev. 1273 (2018). For comment, "Lessons to be Learned: Taxpayers for Public Education v. Douglas County School District and the Flaws of the Douglas County Choice Scholarship Program", see 96 Denv. L. Rev. 145 (2018).

This section prohibits aid by school district to church. Sch. Dist. No. 97 v. Schmidt, 128 Colo. 495, 263 P.2d 581 (1953).

And state aid to sectarian controlled school. As to a school "controlled by a sectarian denomination", a public school cannot be that. It is controlled by the public. Sectarian meant, to the members of the convention and to the electors who voted for and against the constitution, "pertaining to some one of the various religious sects", and the purpose of this section was to forestall public support of institutions controlled by such sects. It had no reference to public schools. People ex rel. Vollmar v. Stanley, 81 Colo. 276, 255 P. 610 (1927), overruled to the extent that it is inconsistent with the establishment clause standards set forth in Abington Sch. Dist. v. Schempp, 374 U.S. 203 (1963); Conrad v. City & County of Denver, 656 P.2d 662 (Colo. 1982).

Bible reading in public schools does not cause taxpayers to pay for aid to sectarian purpose. People ex rel. Vollmar v. Stanley, 81 Colo. 276, 255 P. 610 (1927), overruled to the extent that it is inconsistent with the establishment clause standards set forth in Abington Sch. Dist. v. Schempp, 374 U.S. 203 (1963), Conrad v. City & County of Denver, 656 P.2d 662 (Colo. 1982).

Loan of services of employee of school district to church, while his regularly assigned tasks were to be performed by others, was not a payment from any public funds or moneys in aid of the church under this section. Sch. Dist. No. 97 v. Schmidt, 128 Colo. 495, 263 P.2d 581 (1953).

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Educational grant program not aid to sectarian institution. An educational grant program, available to students at both private and public institutions, does not amount to constitutionally significant aid to a sectarian educational institution. *Americans United for Separation of Church & State Fund, Inc. v. State*, 648 P.2d 1072 (Colo. 1982).

This section prohibits a school district from using public money to aid religious schools. The prohibition is not limited to direct funding. A school district cannot aid or help "support or sustain" any school whatsoever. Facilitating or offering scholarships as inducements to students to attend religious schools provides those schools with the attendance and tuition payments that support the school's ongoing survival, directly in contradiction to the constitution. *Taxpayers Pub. Educ. v. Douglas Cnty. Sch.*, 2015 CO 50, 351 P.3d 461, cert. granted, judgment vacated, and case remanded to the Colorado supreme court for further consideration in light of *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. ___, 137 S. Ct. 2012, 198 L. Ed. 2d 551 (2017), ___ U.S. ___, 137 S. Ct. 2327, 198 L. Ed. 2d 753 (2017).

Applied in *In re Kindergarten Sch.*, 18 Colo. 234, 32 P. 422 (1893).