



Florida School Boards Association

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Proposal 4 – Religious Freedom & Separation of Church and State Discussion and Key Points

Proposal 4 – Religious Freedom & Separation of Church and State by [Roberto Martinez](#)

This proposal revises Article I, Section 3 of the Florida Constitution. The proposal would remove the existing provision -- commonly known as the “No-Aid Provision” or “Blaine Amendment” -- that prohibits the use of public revenues in aid of any church, sect, or religious denomination or any sectarian institution.

Key Points

- Florida’s No Aid Provision, by itself, does not create a prohibition against public funding being available to religious entities for the provision of programs, goods, and services.
- Eliminating Florida’s No Aid Provision would remove an important constitutional safeguard that maintains an appropriate separation of church and state – a separation that protects religion from government interference and, at the same time, protects government from religious interference. This separation is a founding principal of our democracy.
- Publicly funded programs such as the VPK Program, health centers, and correctional facilities operated by faith-based providers are not in danger of violating the No Aid Provision so long as the government-funded program does not advance religion.
- It has been suggested that a recent U.S. Supreme Court ruling is evidence that Florida’s No Aid Provision is unconstitutional. That ruling was specific to how Missouri has implemented their No Aid Provision to refuse to allow a church -- solely because it is a church -- to compete with secular organizations for a state grant and is not applicable to Florida. There has been no instance in which Florida has denied a generally available benefit solely on account of religious identity.
- A proposal similar to Proposal 4 was submitted to voters in the 2012 General Election, but it received only 44.5% of the vote and was not adopted.

Discussion

Article I, Section 3 of the Florida Constitution currently provides, in part, that “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.” Florida is one of 37 states that has a No Aid Provision in the state constitution.

The Florida First District Court of Appeal (1st DCA) has considered a series of cases involving the use of public funds and has concluded that, *“In determining whether such programs violate the no-aid provision, the inquiry necessarily will be case-by-case and will consider such matters as whether the government-funded program is used to promote the religion of the provider, is significantly sectarian in nature, involves religious indoctrination, requires participation in religious ritual, or encourages the preference of one religion over another.”*

The 1st DCA applied this reasoning in finding that the Florida Opportunity Scholarship Program was unconstitutional because it used state revenues to aid sectarian schools. However, in a subsequent case involving government funded programs and services provided by a religious entity, the 1st DCA found that the No Aid Provision was not violated by public funding for those programs and services.