

A relic of anti-religious bigotry, Washington's Blaine Amendment should no longer block school choice for families

By Liv Finne, Director, Center for Education

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Key Facts

1. **Opponents of school choice often cite Washington's Blaine Amendment to block legislation designed to give deserving families public funds to send their children to private school.**
2. **The 1889 Blaine Amendment is an outdated relic of Washington's bigoted past, and after 140 years, it has no relevancy to us today, except as a barrier to education reform.**
3. **Based on a better understanding of the Blaine Amendment, the courts have moved away from a strict separationist perspective on church and state towards a greater accommodation of religion.**
4. **The courts have established that public funds can be used to pay tuition at a religious school because it is the private individual, not the state, who decides to use public funds for this purpose.**
5. **In Higher Education, students can use federal aid to pay tuition at private universities.**
6. **No one says that a public school teacher or other public official is misusing tax money when she sends her child to a private religious school.**
7. **The Blaine Amendment should not be used to block low-income, minority families from receiving the same opportunity to send their children to a private school that public school teachers and employees enjoy.**

Introduction

The 1889 Blaine Amendment is often cited by education reform opponents to block families from benefitting from public services. Although many learning alternatives are not religiously affiliated, the Blaine Amendment is rooted in 19th century anti-religious bigotry that sought to exclude people of faith from participating in certain aspects of public life. Like all bigotry, this view is based on ignorance and has no place in policy discussions in today's legislature.

An open-minded and inclusive approach to improving schools is based on the understanding that all children, regardless of a family's background, ethnicity or religious affiliation, deserve equal access to a good education. Other states, rightly, have not allowed the Blaine Amendment's harsh dictates to stop innovative programs that benefit all families.

The following is testimony provided to the Senate Law and Justice Committee on October 24th, 2017, in the Spokane Valley City Hall. The testimony describes the Blaine Amendment's dark history, and how reform critics try to use it, even today, to block positive and constructive legislation.

Testimony presented to the Senate Law and Justice Committee

Good Morning. Thank you Chairman Padden and members of this committee for the opportunity to speak to you today. My name is Liv Finne, and I am the director for education at Washington Policy Center. I have submitted to you a short editorial on the Blaine Amendment published in *The Tri-City Herald* in August 2017, soon after the *Trinity Lutheran* decision from the U.S. Supreme Court.

As I say in the editorial, opponents of school choice often rely on Washington state's Blaine Amendment to block legislation designed to give deserving families public funds to send their children to private school.

Last week we published a Policy Brief, an "Overview of public school choice programs," which describes school choice programs in the country. School choice is much more common than it was in the past, and today one-fifth of all students benefit from some form of school choice.

Included are vouchers, education savings accounts, and tax credit scholarships which pay the cost of tuition at a private school for 400,000 students. Most of these students come from low-income families.

The dark history of the Blaine Amendment

First and foremost, I echo what Gonzaga Law School Professor DeWolf just said about the origin and purpose of the Blaine Amendment to Washington's constitution. The courts have moved away from a strict separationist perspective on church and state towards a greater accommodation of religion. This is based on a better understanding of the Blaine Amendment history.

Congressman Blaine understood public education to be Protestant schools, with daily prayers, hymn singing, religious exercises and the teaching of the Protestant Bible. All teachers were Christians. Public education was to be a cultural melting pot to assimilate students from all nations and backgrounds, especially Irish and German Catholics, into a Protestant country with nondenominational Protestant schools.

As Professor DeWolf has described, the Blaine Amendment emerged during the presidential contest of 1876. It was a bigoted reaction to millions of poor Irish and German Catholic immigrants entering the country in the late 1800's.

New states required to adopt the Blaine Amendment

While the Amendment was not passed by Congress, Congress did require all states admitted to the union after 1876, including Washington state, to adopt the Blaine Amendment into their constitutions as a condition of statehood.

The Blaine Amendment is an outdated relic of our bigoted past, and after 140 years, it has no relevancy to us today, except as a barrier to education reform.

Public funds can go to private schools

The courts have established it is not a violation of the First Amendment to use public funds to pay tuition at a religious school. In Higher Education, students can use federal aid to pay tuition at a private university. This is not considered an attack on public universities.

The courts have determined this is permissible because it is the private individual, not the state, who decides to use public funds for this purpose. There is no state directing public funds to establish a religion.

There are many examples in higher education of private citizens giving public dollars to private schools, including the GI Bill, Pell grants, and student financial aid.

I am from Seattle, which has one of the highest rates of private school attendance in the country. Thirty percent of Seattle's school children attend private schools. Seattle has 120 private schools and only 98 public schools. Although we do not have any data on this, we know that some percentage of public school employees use their public salary, paid with public dollars, to pay for the tuition of a child attending a private school.

Public officials often send their children to private schools

I heard on NPR radio that the two candidates for Seattle mayor in 2017, Jenny Durkan and Cary Moon, both send their children to private school. No one says that a public school teacher or other public official is misusing tax money, or siphoning money from

other public schools, when she sends her child to a private religious school.

In the same way, families are entitled to public education vouchers to enroll their children at St. Joseph's or Villa Academy, especially low-income families underserved by the Seattle Public Schools. Seattle, by the way, has the fifth highest achievement/opportunity gap between minority and white children in the country, after Washington D.C., Atlanta GA, Charleston SC and Oakland CA.

Conclusion

The Blaine Amendment should not be used to block low-income, minority families from receiving the same opportunity to send their children to a private school that public school teachers and employees enjoy.

Congressman James Blaine is long gone. We need to liberate ourselves from 19th century bigotry that was forced upon Washington state as a condition of statehood.

The Blaine Amendment should not be used to prevent us from moving forward in a cooperative, progressive way to create new tools that help families educate their children, so that all children learn, not just those children whose families already benefit from school choice.

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