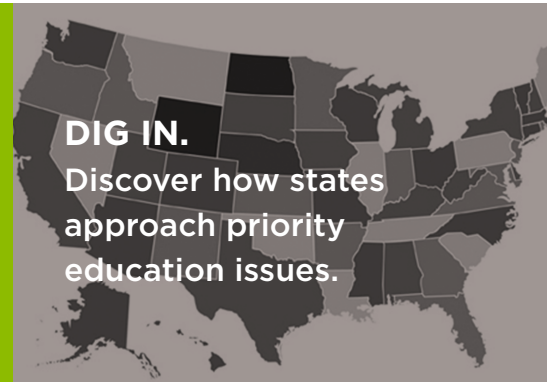




# 50-STATE REVIEW



## Constitutional obligations for public education

EMILY PARKER

Within the constitution of each of the 50 states, there is language that mandates the creation of

**SPECIFIC FUNDING LEVELS IN CONSTITUTIONS CAN QUICKLY BECOME OUTDATED. CALIFORNIA SPENDS MORE THAN 50 TIMES ITS CONSTITUTIONALLY MANDATED PER-PUPIL FUNDING AMOUNT AND DELAWARE SPENDS NEARLY 20,000 TIMES ITS MANDATE.**

a public education system. The authority for public education falls to states because of a 1973 Supreme Court case which determined that the federal government has no responsibility to provide systems of public education. These constitutional

education provisions vary from state to state, with some states specifically laying out the foundation of their education system while others leave the details to the legislature.

Because some state constitutions date back centuries, constitutions can contain outdated language, which can decrease the relevance of the constitution to current-day policy issues. State constitutions vary on whether they include language about public school funding, religious restrictions, the education of disabled students, the age of students, the duration of the school year and the establishment of state higher education systems.

**Language in a state's constitution can have consequences for how education is financed. In recent years, education provisions have been the basis for school finance court cases.**

**Of the 50 state constitutions, nine states require public education for students with disabilities, 37 include language regarding religious restrictions and 30 speak to the establishment of higher education.**

## AUTHORITY FOR PUBLIC EDUCATION

### ***SAN ANTONIO INDEPENDENT SCHOOL DISTRICT V. RODRIGUEZ***

In 1973, the Supreme Court of the United States ruled in *San Antonio Independent School District v. Rodriguez* that there is no fundamental right to education in the Constitution of the United States.<sup>1</sup> Because of this, the burden for providing a system of public education falls to the states. While the Supreme Court cleared up any confusion whether the responsibility for public education falls under the purview of the federal or state government, it opened the door for many more questions about education provisions in each state's individual constitutions. The language used in state constitutions can have sweeping consequences for the policy and laws that policymakers create.

### **WASHINGTON, D.C.**

Because Washington, D.C., is not a state, it uses the United States Constitution as its constitution. However, there is no mention of public education in the United States Constitution. The **District of Columbia Home Rule Act** most closely resembles a constitution, but there also is no mention of public education in the act. Therefore, unlike all 50 of the states, there is no constitutional foundation for public education in Washington, D.C.

## CONSTITUTIONAL LANGUAGE MATTERS

States differ in the constitutional foundation of their public education systems. The specific wording used to describe the public school system has consequences for how schools are funded in each state. In recent years, the constitutional language mandating the creation of public schools has been the basis for school finance court cases in some states.

### ***CAMPBELL COUNTY SCHOOL DISTRICT V. STATE (1995 AND 2001)***

The Wyoming state constitution requires a “complete and uniform system of public instruction” throughout the state; however, through a series of court cases, the Wyoming Supreme Court ruled that districts throughout the state were not meeting this mandate. In a 1995 case known as *Campbell I*, the Supreme Court ruled the state school funding system unconstitutional on equity and adequacy grounds. The court directed the legislature to determine the cost of a quality education and fund districts at that level.<sup>2</sup>

In a 2001 follow-up suit known as *Campbell II*, the Wyoming Supreme Court held that, “while great effort has been made by many and some improvement has been achieved, the constitutional mandate for a fair, complete, and equal education ‘appropriate for the times’ in Wyoming has not been fully met.”<sup>3</sup> The court ruled that the methodology of the school funding legislation adopted in response to *Campbell I* was acceptable but that the legislation must be modified in several respects, especially in the area of capital funding, in order to provide a constitutionally adequate education.

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## LOBATO V. STATE OF COLORADO

Plaintiffs in *Lobato v. State of Colorado* (2013) argued that K-12 schools in the state are chronically underfunded by \$3 billion. The basis for the lawsuit is the language in Colorado's state constitution. The constitution calls for "a thorough and uniform system of free public schools throughout the state." At the time of the case, K-12 education in Colorado received 46 percent of the state's budget, for a total of \$3.2 billion. A favorable ruling for *Lobato* would have required the state of Colorado to nearly double its K-12 funding, devoting 89 percent of the state's \$6.97 billion budget to K-12 funding, or raise taxes significantly.<sup>4</sup> In 2013, the Colorado Supreme Court overturned a district court decision and ruled that school funding in Colorado is, in fact, "thorough and uniform."<sup>5</sup>

In contrast to the earlier *Campbell* cases, which resulted in more resources going to the public education system in the state, the state Supreme Court ruled in *Lobato* that the resources were adequate to ensure the education provision in the constitution was being met.

## KEEPING UP WITH THE TIMES

Constitutions are living documents, designed to be relevant both at the time of writing and centuries in the future. Some constitutions have been re-written and revised, while others still consist of the original wording from the state's founding. The newest active state constitution is the Constitution of the State of Georgia, which went into effect in July 1, 1983; the oldest state constitution is the Constitution of the Commonwealth of Massachusetts, which went into effect on Oct. 25, 1780. In fact, the Constitution of the Commonwealth of Massachusetts is the oldest functioning written constitution in continuous effect in the world.<sup>6</sup> The following examples highlight specific state constitutions and show how outdated language can render education provisions meaningless.

### ALABAMA

Some states have language in their constitution that can be obsolete. For example, Alabama's constitution, which went into effect in 1901, contains outdated language on segregated schools:

"SEPARATE SCHOOLS SHALL BE PROVIDED FOR WHITE AND COLORED CHILDREN, AND NO CHILD OF EITHER RACE SHALL BE PERMITTED TO ATTEND A SCHOOL OF THE OTHER RACE."

Federal law trumps state law, and when the Supreme Court of the United States issued its decision in *Brown v. Board of Education* in 1954, it ended legal racial segregation in schools. In 2004 and 2012, ballot measures were put before the electorate to remove the segregationist language from the Alabama constitution, but the measures were struck down both times.<sup>7</sup>

## MONTANA

More modern constitutions have the option of including language consistent with the changing times. For example, Montana's constitution, which went into effect in 1973, includes language about the protection of Native American culture:

"THE STATE RECOGNIZES THE DISTINCT AND UNIQUE CULTURAL HERITAGE OF THE AMERICAN INDIANS AND IS COMMITTED IN ITS EDUCATIONAL GOALS TO THE PRESERVATION OF THEIR CULTURAL INTEGRITY."

When Montana's original constitution went into effect in 1889 when the state was admitted to the union, this sentiment was not included.<sup>8</sup>

## FUNDING LEVELS IN THE CONSTITUTIONS

California's constitution, which was enacted in 1880, calls for a specific per-pupil funding amount of at least \$180 to be allocated to the districts. In fact, California spends upwards of \$9,000 per pupil in the public school system.<sup>9</sup> Similarly, Delaware's constitution requires that the General Assembly shall designate at least \$100,000 for free, public schools in the state. In fiscal year 2012, Delaware invested nearly \$2 billion in its public K-12 education system.<sup>10</sup> Since state constitutions can be difficult to change, specific funding levels can quickly become outdated.

## 50-STATE REVIEW: CONSTITUTIONAL LANGUAGE REGARDING PUBLIC EDUCATION

The following table is a 50-state overview of the constitutional foundation for public education in each state. It includes the location of the foundational language, which is hyperlinked to that section in the constitution. Additionally, the table looks at whether the constitution includes language on the following topics:

- ✓ **PUBLIC SCHOOL FUNDING.**
- ✓ **RELIGIOUS RESTRICTIONS.**
- ✓ **THE EDUCATION OF DISABLED STUDENTS.**
- ✓ **THE AGE OF STUDENTS.**
- ✓ **THE DURATION OF THE SCHOOL YEAR.**
- ✓ **THE ESTABLISHMENT OF STATE HIGHER EDUCATION SYSTEMS.**

If a section on the table is blank, the constitution does not address that particular topic.



| STATE    | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS  | STUDENT AGE       | SCHOOL YEAR                  | ESTABLISHMENT OF HIGHER EDUCATION  |
|----------|---|--|--|---|--|-------------------|------------------------------|--|
| ALABAMA  | Section 256                                     | Section 256: A liberal system of public schools throughout the state.  | Section 256: The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties.   | Section 263: 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.  |  | Section 256: 7-21 |                              |  |
| ALASKA   | Article 7                                       | Section 1: A system of public schools open to all children of the State.   |  | Section 1: 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. |  |                   |                              | Section 2: The University of Alaska is hereby established as the state university and constituted a body corporate.  |
| ARIZONA  | Article XI                                      | Section 1: A general and uniform public school system, which system shall include:<br>1. kindergarten schools;<br>2. common schools;<br>3. high schools;<br>4. normal schools;<br>5. industrial schools;<br>6. Universities. | Section 9: The amount of this apportionment shall become a part of the county school fund, and the legislature shall enact such laws as will provide for increasing the county fund sufficiently to maintain all the public schools of the county. | Section 7: No sectarian instruction shall be imparted in any school or state educational institution that may be established under this Constitution.   | Section 1: The legislature shall also enact such laws as shall provide for the education and care of pupils who are hearing and vision impaired. | Section 6: 6-21   | Section 6: At least 6 months | Section 1: Universities, which shall include an agricultural college, a school of mines, and such other technical schools as may be essential, until such time as it may be deemed advisable to establish separate state institutions of such character. |
| ARKANSAS | Article XIV                                     | Section 1: A general, suitable and efficient system of free public schools; shall adopt all suitable means to secure to the people the advantages and opportunities of education.  | Section 3: The General Assembly shall provide for the support of common schools by general law. In order to provide quality education, it is the goal of this state to provide a fair system for the distribution of funds.                        |   |  | Section 1: 6-21   |                              | Amendment 52, Section 1: The General Assembly may by law provide for the establishment of districts for the purpose of providing community college instruction and technical training.   |



| STATE      | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE                  | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE | SCHOOL YEAR                         | ESTABLISHMENT OF HIGHER EDUCATION  |
|------------|---|---|--|---|-------------------|-------------|-------------------------------------|--|
| CALIFORNIA | Article 9                                       | <b>Section 5:</b> A system of common schools. | <b>Section 6:</b> The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred eighty dollars (\$180) per pupil in average daily attendance in the kindergarten schools, elementary schools, secondary schools and technical schools. | <b>Section 8:</b> 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. |                   |             | <b>Section 5:</b> At least 6 months | <b>Section 14:</b> The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and community college districts, of every kind and class, and may classify such districts.<br><br><b>Section 9:</b> The University of California shall constitute a public trust, to be administered by the existing corporation known as "The Regents of the University of California," with full powers of organization and government. |



| STATE       | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION  | DISABLED STUDENTS | STUDENT AGE            | SCHOOL YEAR                         | ESTABLISHMENT OF HIGHER EDUCATION  |
|-------------|---|--|---|--|-------------------|------------------------|-------------------------------------|--|
| COLORADO    | Article IX                                      | <b>Section 2:</b> A thorough and uniform system of free public schools throughout the state. | <b>Section 3:</b> The public school fund of the state ... only shall be expended in the maintenance of the schools of the state, and shall be distributed amongst the several counties and school districts of the state, in such manner as may be prescribed by law. | <b>Section 7:</b> 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. |                   | <b>Section 2:</b> 6-21 | <b>Section 2:</b> At least 3 months | <b>Article VIII, Section 5:</b> The following educational institutions are declared to be state institutions of higher education: The university at Boulder, Colorado Springs, and Denver; the university at Fort Collins; the school of mines at Golden; and such other institutions of higher education as now exist or may hereafter be established by law if they are designated by law as state institutions. |
| CONNECTICUT | Article XIII                                    | <b>Section 1:</b> Free public elementary and secondary schools in the state.                 | <b>Section 4:</b> The fund ... shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public schools throughout the state, and for the equal benefit of all the people thereof.                |  |                   |                        |                                     | <b>Section 2:</b> The state shall maintain a system of higher education, including The University of Connecticut, which shall be dedicated to excellence in higher education.  |



| STATE    | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION  | DISABLED STUDENTS   | STUDENT AGE | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION  |
|----------|---|--|--|--|---|-------------|-------------|--|
| DELAWARE | Article X                                       | <b>Section 1:</b> A general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means.   | <b>Section 2:</b> In addition to the income of the investments of the Public School Fund, the General Assembly shall make provision for the annual payment of not less than one hundred thousand dollars for the benefit of the free public schools which, with the income of the investments of the Public School Fund, shall be equitably apportioned among the school districts of the State. | <b>Section 3:</b> 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.              | <b>Section 1:</b> Every child, not physically or mentally disabled, shall attend the public school. |             |             |  |
| FLORIDA  | Article IX                                      | <b>Section 1:</b> A uniform, efficient, safe, secure and high-quality system of free public schools that allows students to obtain a high-quality education.   | <b>Section 6:</b> The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.   | <b>Section 3:</b> 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. |   |             |             | <b>Section 7:</b> There shall be a single state university system comprised of all public universities. A board of trustees shall administer each public university and a board of governors shall govern the state university system. |
| GEORGIA  | Article VIII                                    | <b>Section 1:</b> The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be free and shall be provided for by taxation. | <b>Section 6:</b> School tax funds shall be expended only for the support and maintenance of public schools, public vocational-technical schools, public education and activities necessary or incidental thereto, including school lunch purposes.  | <b>Article 1, Section 2:</b> 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.   |   |             |             |  |





| STATE  | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION  | DISABLED STUDENTS | STUDENT AGE            | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION  |
|--------|---|--|---|--|-------------------|------------------------|-------------|--|
| HAWAII | Article X                                       | <b>Section 1:</b> 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. |   | <b>Section 1:</b> 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 may be appropriated to finance or assist: 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. |                   |                        |             | <b>Section 5:</b> The University of Hawaii is hereby established as the state university and constituted a body corporate.   |
| IDAHO  | Article IX                                      | <b>Section 1:</b> A general, uniform and thorough system of public, free common schools.   | <b>Section 3:</b> The earnings of the public school permanent endowment fund shall be deposited into the public school earnings reserve fund and distributed in the maintenance of the schools of the state, and among the counties and school districts of the state in such manner as may be prescribed by law. | <b>Section 5:</b> 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 ... 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.   |                   | <b>Section 9:</b> 6-18 |             | <b>Section 10:</b> The location of the University of Idaho, as established by existing laws, is hereby confirmed. All the rights, immunities, franchises and endowments, heretofore granted thereto by the territory of Idaho are hereby perpetuated unto the said university. |



| STATE    | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION  | DISABLED STUDENTS   | STUDENT AGE   | SCHOOL YEAR                 | ESTABLISHMENT OF HIGHER EDUCATION   |
|----------|---|---|---|--|---|---|-----------------------------|---|
| ILLINOIS | Article X                                       | <b>Section 1:</b> An efficient system of high-quality public educational institutions and services.                                 | <b>Section 1:</b> The State has the primary responsibility for financing the system of public education.  | <b>Section 3:</b> 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. |   |   |                             |   |
| INDIANA  | Article VIII                                    | <b>Section 1:</b> A general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all. | <b>Section 3:</b> The income [of the Common School Fund] shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever.                     | <b>Article I, Section 6:</b> No money shall be drawn from the treasury, for the benefit of any religious or theological institution.   | <b>Article 9, Section 1:</b> It shall be the duty of the General Assembly to provide, by law, for the support of institutions for the education of the deaf, the mute and the blind; and for the treatment of the insane. |   |                             |   |
| IOWA     | Article IX                                      | <b>Section 12:</b> The education of all the youths of the State, through a system of Common Schools.                                | <b>2nd School Funds and School Lands, Section 1:</b> The educational and school funds and lands, shall be under the control and management of the General Assembly of this State. |  |   | <b>2nd School Funds and School Lands, Section 7:</b> 5-21 | <b>Section 12:</b> 3 months | <b>Section 11:</b> The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that Institution and no other. |



| STATE     | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION  |
|-----------|---|---|---|---|-------------------|-------------|-------------|--|
| KANSAS    | Article VI                                      | <b>Section 1:</b> Intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law. | <b>Section 6:</b> The legislature shall make suitable provision for finance of the educational interests of the state.  | <b>Section 6:</b> No religious sect or sects shall control any part of the public educational funds.  |                   |             |             | <b>Section 2:</b> Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. |
| KENTUCKY  | Section 183                                     | <b>Section 183:</b> An efficient system of common schools throughout the State.   | <b>Section 186:</b> All funds accruing to the school fund shall be used for the maintenance of the public schools ... and the General Assembly shall by general law prescribe the manner of the distribution of the public school fund among the school districts and its use for public school purposes. | <b>Section 189:</b> 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. |                   |             |             |  |
| LOUISIANA | Article VIII                                    | <b>Section 1:</b> The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system.  | <b>Section 11:</b> The legislature shall appropriate funds for the operating and administrative expenses of the state boards.   |   |                   |             |             | <b>Section 14:</b> The Tulane University of Louisiana in New Orleans is recognized as created and to be developed.   |
| MAINE     | Article VIII                                    | <b>Section 1:</b> The several towns to make suitable provision, at their own expense, for the support and maintenance of public schools.  |   |   |                   |             |             |  |
| MARYLAND  | Article VIII                                    | <b>Section 1:</b> A thorough and efficient System of Free Public Schools.   | <b>Section 3:</b> The School Fund of the State shall be kept inviolate, and appropriated only to the purposes of Education.   |   |                   |             |             |  |



| STATE         | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS  | STUDENT AGE | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION  |
|---------------|---|--|--|---|--|-------------|-------------|--|
| MASSACHUSETTS | Chapter V                                       | <b>Section 2:</b> Cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns. | <b>Articles of Amendment, Article XVIII:</b> All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law. | <b>Articles of Amendment, Article XVIII:</b> Such moneys shall never be appropriated to any religious sect for the maintenance exclusively of its own schools.  |  |             |             | <b>Section 1:</b> The President and Fellows of Harvard College ... shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have or are entitled to have, hold, use, exercise and enjoy. |
| MICHIGAN      | Article VIII                                    | <b>Section 2:</b> A system of free public elementary and secondary schools as defined by law.  |  | <b>Article 1, Section 4:</b> No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary.   | <b>Section 8:</b> Institutions, programs and services for the care, treatment, education, or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously disabled shall always be fostered and supported. |             |             | <b>Section 4:</b> The legislature shall appropriate moneys to maintain the [list of 10 Michigan universities] by whatever names such institutions may hereafter be known, and other institutions of higher education established by law.   |
| MINNESOTA     | Article XIII                                    | <b>Section 1:</b> A general and uniform system of public schools.  | <b>Section 1:</b> The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.   | <b>Section 2:</b> 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. |  |             |             | <b>Section 3:</b> All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpetuated unto the university.  |



| STATE       | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION   | DISABLED STUDENTS   | STUDENT AGE                | SCHOOL YEAR                         | ESTABLISHMENT OF HIGHER EDUCATION  |
|-------------|---|--|---|---|---|----------------------------|-------------------------------------|--|
| MISSISSIPPI | Article 8                                       | <b>Section 201:</b> Free public schools.   | <b>Section 206:</b> There shall be a state common-school fund, to be taken from the General Fund in the State Treasury, which shall be used for the maintenance and support of the common schools.    | <b>Section 208:</b> 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.  | <b>Section 209:</b> It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind. |                            |                                     | <b>Section 213-A:</b> The state institutions of higher learning now existing in Mississippi, to-wit: [list of 8 Mississippi universities] and any others of like kind which may be hereafter organized or established by the State of Mississippi. |
| MISSOURI    | Article IX                                      | <b>Section 1:</b> Free public schools for the gratuitous instruction of all persons. | <b>Section 3:</b> All appropriations by the state for the support of free public schools and the income from the public school fund shall be paid at least annually and distributed according to law. | <b>Section 8:</b> 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 creed, church or sectarian denomination whatever. |   | <b>Section 1:</b> Under 21 | <b>Section 3:</b> At least 8 months | <b>Section 9:</b> The general assembly shall adequately maintain the state university and such other educational institutions as it may deem necessary.  |



| STATE    | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS   | STUDENT AGE            | SCHOOL YEAR                         | ESTABLISHMENT OF HIGHER EDUCATION   |
|----------|---|---|--|---|---|------------------------|-------------------------------------|---|
| MONTANA  | Part X  | <b>Section 1:</b> A system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state ... a basic system of free quality public elementary and secondary schools. | <b>Section 1:</b> [The legislature] shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.        | <b>Section 6:</b> 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. |   |                        |                                     | <b>Section 10:</b> The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. |
| NEBRASKA | Article VII                                     | <b>Section 1:</b> Free instruction in the common schools of this state.   | <b>Section 5:</b> All such fines, penalties and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue. | <b>Section 11:</b> All public schools shall be free of sectarian instruction.   | <b>Section 11:</b> Educational or other services for the benefit of children ... who are handicapped ... if such services are nonsectarian in nature. | <b>Section 1:</b> 5-21 |                                     | <b>Section 10:</b> The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board.  |
| NEVADA   | Article 11                                      | <b>Section 2:</b> A uniform system of common schools.   | <b>Section 6:</b> The legislature shall provide for [the schools'] support and maintenance by direct legislative appropriation from the general fund.  | <b>Section 9:</b> No sectarian instruction shall be imparted or tolerated in any school or University that may be established under this Constitution.  |   |                        | <b>Section 2:</b> At least 6 months | <b>Section 4:</b> The Legislature shall provide for the establishment of a State University, which shall embrace departments for Agriculture, Mechanic Arts and Mining.   |



| STATE         | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE             | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION   |
|---------------|---|---|--|---|-------------------|-------------------------|-------------|---|
| NEW HAMPSHIRE | Article 83                                      | <b>Article 83:</b> To cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country. |  | <b>Section 83:</b> 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.                                   |                   |                         |             |   |
| NEW JERSEY    | Article VIII                                    | <b>Section IV:</b> A thorough and efficient system of free public schools for the instruction of all the children in the State.   | <b>Section IV:</b> The fund ... shall be annually appropriated to the support of free public schools, and for the equal benefit of all the people of the State.  |   |                   | <b>Section IV:</b> 5-18 |             |   |
| NEW MEXICO    | Article XII                                     | <b>Section 1:</b> A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state.  | <b>Section 4:</b> All forfeitures, unless otherwise provided by law, and all fines collected under general laws; the net proceeds of property that may come to the state by escheat; the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress shall constitute the current school fund of the state. | <b>Section 3:</b> No ... funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university. |                   |                         |             | <b>Section 11:</b> [All state universities] are hereby confirmed as state educational institutions. |



| STATE          | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION  | DISABLED STUDENTS | STUDENT AGE | SCHOOL YEAR                         | ESTABLISHMENT OF HIGHER EDUCATION   |
|----------------|---|--|---|--|-------------------|-------------|-------------------------------------|---|
| NEW YORK       | Article XI                                      | <b>Section 1:</b> A system of free common schools, wherein all the children of this state may be educated. |   | <b>Section 3:</b> Neither the state nor any subdivision thereof, shall use its property or credit or any public money ... of any school or institution of learning wholly or in part under the control or direction of any religious denomination. |                   |             |                                     |   |
| NORTH CAROLINA | Article IX                                      | <b>Section 2:</b> A general and uniform system of free public schools.                                     | <b>Section 2:</b> The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program. |  |                   |             | <b>Section 2:</b> At least 9 months | <b>Section 8:</b> The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise.<br><br><b>Section 9:</b> The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense. |





| STATE        | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS   | STUDENT AGE     | SCHOOL YEAR                  | ESTABLISHMENT OF HIGHER EDUCATION   |
|--------------|---|---|--|---|---|-----------------|------------------------------|---|
| NORTH DAKOTA | Article VIII                                    | Section 2: A uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education. |  | Section 5: 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. |   |                 |                              | Section 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.   |
| OHIO         | Article VI                                      | Section 2: A thorough and efficient system of common schools throughout the State.  | Section 2: 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.   | Section 2: 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.     | Article VII, Section 1: Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the State.                                      |                 |                              | Section 5: To increase opportunities to the residents of the state for higher education, it is hereby determined to be in the public interest and a proper public purpose for the state to guarantee the repayment of loans made to residents of this state to assist them in meeting the expenses of attending an institution of higher education. |
| OKLAHOMA     | Article XIII                                    | Section 1: Free public schools wherein all the children of the State may be educated.   | Section 1a: The Legislature shall, by appropriate legislation, raise and appropriate funds for the annual support of the common schools of the State to the extent of forty-two (\$42.00) dollars per capita based on total state-wide enrollment for the preceding school year. |   | Section 2: The Legislature shall provide for the establishment and support of institutions for the care and education of persons within the state who are deaf, deaf and mute or blind. | Section 4: 8-16 | Section 4: At least 3 months | Article XIII-A-1: All institutions of higher education supported wholly or in part by direct legislative appropriations shall be integral parts of a unified system to be known as "The Oklahoma State System of Higher Education."   |



| STATE          | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT  | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE            | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION |
|----------------|---|---|--|---|-------------------|------------------------|-------------|-----------------------------------|
| OREGON         | Article VIII                                    | <b>Section 3:</b> A uniform, and general system of Common schools.  | <b>Section 8:</b> The Legislative Assembly shall appropriate in each biennium a sum of money sufficient to ensure that the state's system of public education meets quality goals established by law.  |   |                   | <b>Section 4:</b> 4-20 |             |                                   |
| PENNSYLVANIA   | Article III                                     | <b>Section 14:</b> A thorough and efficient system of public education to serve the needs of the Commonwealth.  |  | <b>Section 15:</b> 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.  |                   |                        |             |                                   |
| RHODE ISLAND   | Article XII                                     | <b>Section 1:</b> Promote public schools and public libraries, and to adopt all means which it may deem necessary and proper to secure to the people the advances and opportunities of education and public library services. | <b>Section 2:</b> The money which now is or which may hereafter be appropriated by law for the establishment of a permanent fund for the support of public schools, shall be securely invested and remain a perpetual fund for that purpose. |   |                   |                        |             |                                   |
| SOUTH CAROLINA | Article XI                                      | <b>Section 3:</b> A system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable.                                |  | <b>Section 4:</b> 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. |                   |                        |             |                                   |



| STATE        | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE  | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION   |
|--------------|---|---|---|---|-------------------|-------------|-------------|---|
| SOUTH DAKOTA | Article VIII                                    | <b>Section 1:</b> A general and uniform system of public schools wherein tuition shall be without charge, and equally open to all.  | <b>Section 3:</b> The interest and income of this fund together with all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state. | <b>Section 16:</b> No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state.   |                   |             |             |   |
| TENNESSEE    | Article XI                                      | <b>Section 12:</b> A system of free public schools.   |   |   |                   |             |             | <b>Section 12:</b> The General Assembly may establish and support such postsecondary educational institutions, including public institutions of higher learning, as it determines.  |
| TEXAS        | Article VII                                     | <b>Section 1:</b> An efficient system of public free schools.   | <b>Section 5:</b> The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.  | <b>Section 5:</b> The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school.   |                   |             |             | <b>Section 10:</b> The legislature shall ... establish, organize and provide for the maintenance, support and direction of a University of the first class, to be located by a vote of the people of this State, and styled, "The University of Texas." |
| UTAH         | Article X                                       | <b>Section 1:</b> The Legislature shall provide for the establishment and maintenance of the state's education systems including a public education system, which shall be open to all children of the state. | <b>Section 5:</b> The Uniform School Fund shall be maintained and used for the support of the state's public education system ... and apportioned as the Legislature shall provide.                                       | <b>Section 9:</b> 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. |                   |             |             | <b>Section 2:</b> The higher education system shall include all public universities and colleges and such other institutions and programs as the Legislature may designate.   |



| STATE      | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION  | DISABLED STUDENTS | STUDENT AGE | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION |
|------------|---|--|---|--|-------------------|-------------|-------------|-----------------------------------|
| VERMONT    | Section 68                                      | <b>Section 68:</b> A competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.   |   |  |                   |             |             |                                   |
| VIRGINIA   | Article VIII                                    | <b>Section 1:</b> A system of free public elementary and secondary schools for all children of school age throughout The Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained. | <b>Section 2:</b> The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality. | <b>Section 10:</b> 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. |                   |             |             |                                   |
| WASHINGTON | Article IX                                      | <b>Section 2:</b> The legislature shall provide for a general and uniform system of public schools.  | <b>Section 2:</b> The entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.                    | <b>Section 4:</b> All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.   |                   |             |             |                                   |



| STATE         | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION   | DISABLED STUDENTS  | STUDENT AGE            | SCHOOL YEAR | ESTABLISHMENT OF HIGHER EDUCATION   |
|---------------|---|--|---|---|--|------------------------|-------------|---|
| WEST VIRGINIA | Article XII                                     | <b>Section 1:</b> A thorough and efficient system of free schools.   | <b>Section 5:</b> The Legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund."  | <b>Article III, Section 15:</b> The Legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination. | <b>Section 12:</b> It shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the state may demand. |                        |             |   |
| WISCONSIN     | Article X                                       | <b>Section 3:</b> The establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition. | <b>Section 2:</b> [T]he school fund ... shall be exclusively applied to the following objects, to wit: (1) To the support and maintenance of common schools, in each school district, and the purchase of suitable libraries and apparatus therefor. (2) The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor. | <b>Section 3:</b> No sectarian instruction shall be allowed therein.  |  | <b>Section 5:</b> 4-20 |             | <b>Section 6:</b> Provision shall be made by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. |



| STATE   | LOCATION OF EDUCATION PROVISION IN CONSTITUTION | EDUCATION PROVISION LANGUAGE   | FUNDING REQUIREMENT   | RELIGIOUS RESTRICTION   | DISABLED STUDENTS | STUDENT AGE            | SCHOOL YEAR                | ESTABLISHMENT OF HIGHER EDUCATION   |
|---------|---|--|---|---|-------------------|------------------------|----------------------------|---|
| WYOMING | Article 7                                       | <b>Section 1:</b> A complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade. | <b>Section 8:</b> Provision shall be made by general law for the equitable allocation of such income among all school districts in the state. | <b>Section 8:</b> 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. |                   | <b>Section 9:</b> 6-21 | <b>Section 8:</b> 3 months | <b>Section 1:</b> A university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary. |

## AUTHOR

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## ENDNOTES

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Note: This report is an update to a **2002 report**.

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