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Individual Rights

1. In this case, the court will probably rule that the ordinance is

A retail vendor of ice cream products qualifies for this exemption and is the only food vendor that does. A yogurt retailer has a business similar to the ice cream vendor, but the yogurt vendor has been selling to the public directly from trucks located on the streets of the city only for the past ten years. The yogurt vendor filed suit in an appropriate federal district court to enjoin the enforcement of this ordinance on the ground that it denies the yogurt vendor the equal protection of the laws. A city has had a severe traffic problem on its streets. As a result, it enacted an ordinance prohibiting all sales to the public of food or other items by persons selling directly from trucks, cars, or other vehicles located on city streets. The ordinance included an inalienable grandfather provision exempting from its prohibition vendors who, for 20 years or more, have continuously sold food or other items from such vehicles located on the streets of the city.

- Constitutional, because it is narrowly tailored to implement the city's compelling interest in reducing traffic congestion and, therefore, satisfies the strict scrutiny test applicable to such cases
- **Constitutional, because its validity is governed by the rational basis test, and the courts consistently defer to economic choices embodied in such legislation if they are even plausibly justifiable**
- Unconstitutional, because the nexus between the legitimate purpose of the ordinance and the conduct it prohibits is so tenuous and its provisions are so underinclusive that the ordinance fails to satisfy the substantial relationship test applicable to such cases
- Unconstitutional, because economic benefits or burdens imposed by legislatures on the basis of grandfather provisions have consistently been declared invalid by courts as *per se* violations of the Equal Protection Clause of the Fourteenth Amendment

Note:

When neither a suspect class nor a fundamental right is implicated by a statute, courts review the classification with extreme deference and a heavy presumption of constitutionality. Most general "economic" and "social welfare" legislation falls within this limited review category. Under the rational basis standard, a law will be upheld if it is conceivable that there is some rational relation between the means selected by the legislature and a legitimate legislative objective. Although the legislature's purpose or objective in enacting a statute must be legitimate, courts give extreme deference to the legislature's right to define its objectives. So long as there is at least one conceivable objective that is legitimate and rationally related to the means, courts will uphold the regulation.

B is correct. The ordinance is constitutional because it is an economic regulation and does not implicate a suspect class or fundamental right, thus triggering the "mere-rationality" review. This choice correctly indicates that courts will give extreme deference to the choices by local legislatures regarding economic laws, even if the justification is merely plausible. The city's interest in reducing its extreme traffic problem is conceivably legitimate and prohibiting direct food sales on the streets is rationally related to that end.

A is incorrect. This answer reaches the correct answer with the wrong reasoning. Although the ordinance will be found to be constitutional, it is not because it is narrowly tailored to the city's compelling state interest. In fact, the court may not necessarily find that reducing traffic congestion amounts to a compelling interest. Nevertheless, strict scrutiny is not the correct standard to apply here because the ordinance is an economic regulation, which involves neither a suspect class or a fundamental right. Therefore, as explained above, the ordinance is constitutional because it satisfies the mere-rationality test.

C is incorrect. This choice articulates the incorrect standard of review to apply. The applicable test is not the "substantial relationship" test, but the mere-rationality standard. Furthermore, it is not clear that the limitation of street vendors to those in business for 20 years is so tenuous and under-inclusive that it would not satisfy a substantial relationship test.

*D is incorrect. This is a misstatement of the law. Such economic burdens are not *per se* violations of equal protection. In fact, economic regulations imposed by legislatures do not involve fundamental rights or suspect classifications, which means that courts will apply extreme deference and presume that such measures are constitutional, not unconstitutional.*

2. Which of the following best describes the appropriate standard by which the court should review the constitutionality of the state statutory funding formula?

The school boards of two school districts, together with parents and schoolchildren in those districts, bring suit in federal court to enjoin the state from allocating the additional funds from the state treasury to this formula. They allege that the failure of the state, in allocating this additional money, to take into account a school district's sources of revenue other than revenue derived from taxes levied on real estate located there violates the Fourteenth Amendment. The complaint does not allege that the allocation of the additional state funds based on the current statutory formula has resulted in a failure to provide minimally adequate education to any child. Public schools in a state are financed, in large part, by revenue derived from real estate taxes imposed by each school district on the taxable real property located in that district. Public schools also receive other revenue from private gifts, federal grants, student fees, and local sales taxes. For many years, the state has distributed additional funds, which come from the state treasury, to local school districts in order to equalize the funds available on a per-student basis for each public school district. These additional funds are distributed on the basis of a state statutory formula that considers only the number of students in each public school district and the real estate tax revenue raised by that district. The formula does not consider other revenue received by a school district from different sources.

- Because classifications based on wealth are inherently suspect, the state must demonstrate that the statutory formula is necessary to vindicate a compelling state interest
- Because the statutory funding formula burdens the fundamental right to education, the state must demonstrate that the formula is necessary to vindicate a compelling state interest
- **Because no fundamental right or suspect classification is implicated in this case, the plaintiffs must demonstrate that the funding allocation formula bears no rational relationship to any legitimate state interest**
- Because the funding formula inevitably leads to disparities among the school districts in their levels of total funding, the plaintiffs must only demonstrate that the funding formula is not substantially related to the furtherance of an important state interest

Note:

C is correct. There is no fundamental right to education, and wealth is not a suspect class. Because there is no fundamental right or suspect class at issue, the court will apply rational basis review, which would require the plaintiffs to demonstrate that the funding allocation formula is not rationally related to any conceivable legitimate state interest.

A is incorrect. Wealth is not a suspect class.

B is incorrect. Education is not a fundamental right.

D is incorrect. The regulation only needs to be rationally related to a legitimate state interest.

3. If no federal statute is applicable, which of the following facts, if proven, would most strongly support the validity of the action of the state reapportionment board?

A registered voter, who is Black and is a resident of the city, brings suit in an appropriate court against the members of the state reapportionment board, seeking declaratory and injunctive relief that would require the boundary lines of the state legislative districts in the greater metropolitan area be redrawn. His only claim is that the current reapportionment violates the Fifteenth Amendment because it improperly dilutes the voting power of the Black residents who reside in that area. The constitution of a state authorizes a five-member state reapportionment board to redraw state legislative districts every ten years. In the last state legislative reapportionment, the board, by a unanimous vote, divided the greater metropolitan area, composed of a large city and several contiguous townships, into three equally populated state legislative districts. The result of that districting was that 40% of the area's total Black population resided in one of those districts, 45% of the area's total Black population resided in the second of those districts, and 15% resided in the third district.

- **In drawing the current district lines, the reapportionment board precisely complied with state constitutional requirements that state legislative districts be compact and follow political subdivision boundaries to the maximum extent feasible**
- The reapportionment board was composed of three White members and two Black members and both of the board's Black members were satisfied that its plan did not improperly dilute the voting power of the Black residents who reside in that area
- Although the rate of voter registration among Blacks is below that of voter registrations among Whites in the greater metropolitan area, two Black legislators have been elected from that area during the last 15 years
- The total Black population of the greater metropolitan area amounts to only 15% of the population that is required to comprise a single legislative district

Note:

The Fifteenth Amendment is a limitation on both the states and the federal government. It prohibits them from denying any citizen the right to vote on account of race or color.

Government programs that attempt to assist racial or ethnic minorities in an explicitly race- or ethnically-conscious way will also invoke strict scrutiny just as if it were a regulation that purposefully disadvantages a minority group. As such, race cannot be the predominant factor in drawing the boundaries of a voting district unless the district plan can pass muster under strict scrutiny. See Miller v. Johnson, 515 U.S. 900 (1995).

A is correct. This choice offers the strongest support for the validity of the reapportionment board's actions because it is not based on race, which would have triggered strict scrutiny review. Because this reasoning for the board's actions is based on the state constitutional requirements, it is more likely to be upheld under a lesser standard of review.

B is incorrect. The number of White and/or Black members of the reapportionment board is irrelevant to determining whether race was used as a basis for redrawing the voting districts.

C is incorrect. Similarly, the number or percentage of Black legislators elected during the past 15 years is irrelevant to whether the reapportionment board used race as the basis for redrawing the voting districts.

D is incorrect. The primary issue is whether race was used in redrawing the voting districts, and the percentage of the population that is Black in no way establishes whether the board did so.

4. Which of the following is the strongest argument against the constitutionality of this federal act?

The Federal Family Film Enhancement Act assesses an excise tax of 10% on the price of admission to public movie theaters when they show films that contain actual or simulated scenes of human sexual intercourse.

- The act imposes a prior restraint on the freedom of speech protected by the First Amendment
- The act is not rationally related to any legitimate national interest
- The act violates the equal protection concepts embodied in the Due Process Clause of the Fifth Amendment because it imposes a tax on the price of admission to view certain films and not on the price of admission to view comparable live performances
- **The act imposes a tax solely on the basis of the content of speech without adequate justification and, therefore, it is prohibited by the Freedom of Speech Clause of the First Amendment**

Note:

D is correct. The federal government is regulating, through this tax, what kinds of things people can be shown. That regulation is based on content. Content-based restrictions must satisfy strict scrutiny, and there is no compelling government interest that this regulation was narrowly tailored to achieve. The Act assesses a tax on the price of movie tickets when they show films that contain actual or simulated scenes of sexual intercourse. Obscenity is defined as a description or depiction of sexual conduct that a reasonable person, applying contemporary community standards would: (i) think appeals to the prurient interest in sex; (ii) portrays sex in an offensive way; and (iii) does not have serious literary, artistic political or scientific value. Here, the facts simply state that the films contain actual or simulated scenes of human sexual intercourse. It does not rise to the level of obscenity and is therefore protected speech.

A is incorrect. This is not a prior restraint. It does not prohibit these kinds of films from being made.

B is incorrect. Rational basis is not the appropriate test because the regulation is content-based.

C is incorrect. Differentiation between the types of venues that can show the material is content-neutral; therefore, it only needs to be narrowly tailored to satisfy an important governmental interest.

5. Is the action of the city council constitutional?

On the basis of these statements, the city council discharged the building inspector. A city ordinance makes the city building inspector responsible for ensuring that all buildings in that city are kept up to the building code standards, and requires the inspector to refer for prosecution all known building code violations. Another ordinance provides that the city building inspector may be discharged for "good cause." The building inspector took a newspaper reporter through a number of run-down buildings in a slum neighborhood. After using various epithets and slurs to describe the occupants of these buildings, the building inspector stated to the reporter: "I do not even try to get these buildings up to code or to have their owners prosecuted for code violations because if these buildings are repaired, the people who live in them will just wreck them again." The reporter published these statements in a story in the local newspaper. The building inspector admitted he made the statements.

- **Yes, because the statements demonstrate that the building inspector has an attitude toward a certain class of persons that interferes with the proper performance of the obligations of his job**
- Yes, because the building inspector is a government employee and a person holding such a position may not make public comments inconsistent with current governmental policy
- No, because the statements were lawful comments on a matter of public concern
- No, because the statements were published in a newspaper that is protected by the Fourteenth Amendment

Note:

A is correct. A public employee has a First Amendment right to speak on a matter of public concern, and may not be discharged for that speech unless the employee's actions interfere with the functions of the government. While the building inspector may have been speaking on a matter of public concern - enforcement of the building code and the state of low-income housing, which was the subject of a newspaper story - the statements demonstrated that the building inspector's attitude was interfering with his job, which was enforcement of the building code.

B is incorrect. Government employees have a First Amendment right to comment publicly on matters of public concern.

C is incorrect. Even when an employee's speech is on a matter of public concern, that employee may still be discharged if the employee's actions interfere with the functions of the government.

D is incorrect. The Fourteenth Amendment does not protect speech in newspapers.

6. Will the plaintiff's suit succeed?

The plaintiff is a resident of the county who was charged the higher rate by the insurance company because of the location of her residence. The plaintiff sues the insurance company, alleging that the differential in insurance rates unconstitutionally denies her the equal protection of the law. Insurance is provided in a particular state only by private companies. Although the state insurance commissioner inspects insurance companies for solvency, the state does not regulate their rates or policies. An insurance company charges higher rates for burglary insurance to residents of one part of a county in the state than to residents of another section of the same county because of the different crime rates in those areas.

- Yes, because the higher crime rate in the plaintiff's neighborhood demonstrates that the county police are not giving persons who reside there the equal protection of the laws
- Yes, because the insurance rate differential is inherently discriminatory
- **No, because the constitutional guarantee of equal protection of the law is not applicable to the actions of these insurance companies**
- No, because there is a rational basis for the differential in insurance rates

Note:

C is correct. The Constitution provides for equal protection of the law, which means that it protects individuals from actions by the state (the Fourteenth Amendment) or the federal government (the Fifth Amendment). Equal protection only restricts private action in extremely specific circumstances, none of which are present in this fact pattern.

A is incorrect. This choice assumes that the Constitution prohibits differential treatment by private companies. Moreover, the plaintiff is suing the insurance company, not the police, for a violation of equal protection. The equal protection violation here would be caused by the police.

B is incorrect. Generally, private discrimination does not violate the Constitution.

D is incorrect. The Constitution only restricts private action in extremely specific circumstances, none of which are present in this situation.

7. As a matter of constitutional law, which of the following is the proper burden of persuasion in this suit?

A woman sought her party's nomination for governor in the May primary election. After losing in the primary, the woman filed nominating petitions containing the requisite number of signatures to become a candidate for the office of governor in the following general election. The chief elections officer of the state refused to certify the woman's petitions solely because of the above statute. The woman then filed suit in federal district court challenging the constitutionality of this state statute. A state has a statute providing that an unsuccessful candidate in a primary election for a party's nomination for elected public office may not become a candidate for the same office at the following general election by nominating petition or by write-in votes.

- The woman must demonstrate that the statute is not necessary to achieve a compelling state interest
- The woman must demonstrate that the statute is not rationally related to a legitimate state interest
- **The state must demonstrate that the statute is the least restrictive means of achieving a compelling state interest**
- The state must demonstrate that the statute is rationally related to a legitimate state interest

Note:

In cases involving access to the ballot by political candidates, the U.S. Supreme Court typically determines whether the restriction at issue violates either the First Amendment freedom of association or the Fourteenth Amendment Equal Protection Clause. If the restriction infringes upon a fundamental right, such as the freedom of association, strict scrutiny will apply.

*In “demonstrated support” cases, where a state requires a candidate to win the primary before running in the general election, a balancing test applies. In *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997), the Court stated the process of weighing “the character and magnitude of the burden the state’s ruling imposes” upon First and Fourteenth Amendment rights and then determining whether the interest justifies a severe burden. This is done by looking at whether the restriction is narrowly tailored to further a compelling interest.*

*When the burdens are less severe, however, the scrutiny will also be less severe. In other words, this is a case-by-case analysis. See *Storer v. Brown*, 415 U.S. 724 (1974) (finding a demonstrated support restriction constitutional when a reasonable alternative means exists for a candidate to access the ballot without heavily burdening the right to associate or vote). If the restriction is reasonable and non-discriminatory, it generally will be upheld on the basis of the state’s important regulatory interests. *Burdick v. Takushi*, 504 U.S. 428 (1992).*

C is correct. Restrictions on the ability of persons to be candidates must be examined to see if they violate either the First Amendment or the Fourteenth Amendment Equal Protection Clause. Here, First Amendment rights are violated by the action. The statute infringes on the right of political association by completely barring an individual from associating themselves with a party after losing that party’s primary, in the general election. This severe burden thus triggers strict scrutiny, and the statute will be struck down unless the government proves that the statute is necessary to achieve a compelling interest.

A is incorrect. The burden is on the state, not the woman, to prove that the statute serves a compelling interest given the severity of the burden on the right of association.

B is incorrect. This is the wrong level of scrutiny to review a government action that involves a fundamental right. Rational basis is the lowest standard of review and only applies when the government action does not involve any fundamental rights, suspect classifications, or quasi-suspect classifications. In this question, a fundamental right is involved with the government action, so rational basis review would be inappropriate.

D is incorrect. As explained above, rational basis review is inappropriate to review a government action that involves fundamental rights. This answer choice also misstates who bears the burden in rational basis review. Under rational basis, the challenger must prove that the action is not rationally related to a legitimate government interest, not the government.

8. In this case, the court should hold that the exclusion of aliens from the state award program is

A family are aliens who are permanent residents of the United States and have resided in the state for three years. When their first child was born two months ago, they applied for and were denied the \$1,000 award by state officials on the sole ground that they are not citizens of the United States. The family filed suit in federal court contending that their exclusion from the award program was unconstitutional. Assume no federal statute addresses this question. To encourage the growth of its population, a state established a program that awarded \$1,000 to the parents of each child born within the state, provided that at the time of the child's birth the mother and father of the newborn were citizens of the United States.

- Constitutional, because the Tenth Amendment reserves to the states plenary authority over the spending of state funds
- Constitutional, because the state has a legitimate interest in encouraging the growth of its population, and a rational legislature could believe that families in which both parents are United States citizens are more likely to stay in the state and contribute to its future prosperity than those in which one or both of the parents are aliens
- **Unconstitutional, because strict scrutiny governs judicial review of such state classifications based on alienage, and the state cannot demonstrate that this classification is necessary to advance a compelling state interest**
- Unconstitutional, because state classifications based on alienage are impermissible unless explicitly authorized by an act of Congress

Note:

C is correct. State laws on alienage are subject to strict scrutiny unless they discriminate against alien participation in state government (in which case only a rational basis review would be required). Since the state cannot demonstrate that this classification is necessary to advance a compelling state interest, it will not pass a strict scrutiny review.

A is incorrect. Any power to spend state funds is necessarily limited by the Fourteenth Amendment.

B is incorrect. Rational basis is the incorrect level of review; since this is state law, alienage is a suspect classification.

D is incorrect. State statutes can make a classification based on alienage as long as the classification is necessary to advance a compelling state interest.

9. Which of the following arguments would be most helpful to the student's parents in this suit?

A fifth-grade student in the city's elementary school was charged with placing chewed bubble gum on a classmate's chair, a violation of the student behavior code. He had never violated the code before and was otherwise an attentive and well-behaved student. After a hearing on the charges, the student's principal determined that the student had violated the behavior code in the manner charged, and ordered the student to spend the next 15 school days in the school confinement room with his hands clasped in front of him. The student's parents filed suit in federal court challenging, solely on constitutional grounds, the principal's action in ordering the student to spend the next 15 school days in the school confinement room with his hands clasped in front of him. A school board in a small city issued a rule authorizing public school principals to punish, after a hearing, students who engage in violations of the board's student behavior code. According to the rule, violators of the behavior code may be punished in a variety of ways including being required to sit in designated school confinement rooms during all school hours, with their hands clasped in front of them, for a period of up to 15 school days.

- Because the school board rule limits the freedom of movement of students and subjects them to bodily restraint, it denies them a privilege and immunity of citizenship guaranteed them by Article IV, Section 2
- Because the school board rule is substantially overbroad in relation to any legitimate purpose, it constitutes a facial violation of the Equal Protection Clause of the Fourteenth Amendment
- **Because application of the school board rule in this case denies the student freedom of movement and subjects him to bodily restraint in a manner grossly disproportionate to his offense and circumstances, it violates the Due Process Clause of the Fourteenth Amendment**
- Because the school board rule is enforced initially by administrative rather than judicial proceedings, it constitutes a prohibited bill of attainder

Note:

Procedural due process guarantees a person certain rights if he is deprived of life, liberty, or property. When the government intentionally deprives a person of a legitimate liberty interest, he must be given fair process. The Court weighs several factors in determining whether the process is adequate, including: (i) the level of importance of the individual's interest; (ii) how valuable procedural safeguards are in protecting that interest; and (iii) the government's interest in adjudicative efficiency. In the context of public school disciplinary action, specifically suspension of more than 10 days, a student must be given notice of the government action and an opportunity to explain before imposition of the punishment.

C is correct. The best argument is that the student was denied procedural due process. The student had never violated the behavior code and his offense was placing chewed gum on a classmate's chair. Sentencing him to a 15-day confinement, unable to move freely or participate in his education, amounted to a significant deprivation of the student's liberty interest for a relatively minor violation. In weighing the applicable factors, the student's interests in having bodily freedom and access to education for a full 15 days, the high importance of protecting that interest through safeguards, and the relatively low interest in the school's administrative efficiency, the best argument is that this grossly disproportionate punishment violates the Due Process Clause of the Fourteenth Amendment.

A is incorrect. Freedom of movement in this sense is protected by the Due Process Clause, not the Privileges and Immunities Clause of Article IV, Section 2, which prohibits citizenship or residency classifications.

B is incorrect. The rule is not facially overbroad. The rule would be facially overbroad only if it could never be applied constitutionally in any situation.

D is incorrect. This is not a bill of attainder, a law that imposes a punishment without a judicial proceeding. There is a judicial proceeding conducted by an administrative body and it is not unconstitutional for an administrative body to act in a quasi-judicial manner.

10. In this case, the federal district court should

The faculty member did not appeal the decision of the state administrative board to the state courts. Instead, she sought a declaratory judgment in federal district court to the effect that the state statute prescribing the procedures for her dismissal is unconstitutional. Three months after her dismissal, she was granted a hearing before the state administrative board. The board upheld her dismissal, finding that the charge against her was supported by a preponderance of the evidence presented at the hearing. A teacher who had been employed continuously for seven years as a faculty member at the state university was dismissed. A week before the dismissal took effect, she was informed that she was being dismissed because of a charge that she accepted a bribe from a student in return for raising the student's final grade in her course. At that time she requested an immediate hearing to contest the propriety of her dismissal. A state statute declares that after five years of continuous service in their positions, all state employees, including faculty members at the state university, are entitled to retain their positions during "good behavior." The statute also contains a number of procedural provisions. Any state employee who is dismissed after that five-year period must be given reasons for the dismissal before it takes effect. In addition, such an employee must, upon request, be granted a post-dismissal hearing before an administrative board to seek reinstatement and back pay. The statute precludes any other hearing or opportunity to respond to the charges. That post-dismissal hearing must occur within six months after the dismissal takes effect. The burden of proof at such a hearing is on the state, and the board may uphold the dismissal only if it is supported by a preponderance of the evidence. An employee who is dissatisfied with a decision of the board after a hearing may appeal its decision to the state courts. The provisions of this statute are inseverable.

- Dismiss the suit, because a claim that a state statute is unconstitutional is not ripe for adjudication by a federal court until all judicial remedies in state courts provided for by state law have been exhausted
- Hold the statute unconstitutional because the Due Process Clause of the Fourteenth Amendment requires a state to demonstrate beyond a reasonable doubt the facts constituting good cause for termination of a state employee
- **Hold the statute unconstitutional, because a state may not ordinarily deprive an employee of a property interest in a job without giving the employee a pre-termination opportunity to respond to the charges against that employee**
- Hold the statute constitutional, because the Due Process Clause of the Fourteenth Amendment entitles state employees who have a right to their jobs during good behavior only to a statement of reasons for their dismissal and an opportunity for a post-dismissal hearing

Note:

Procedural due process requires that the state act with adequate or fair procedures when it deprives a person of life, liberty or property. As an initial determination, the thing being taken away must constitute "property." There must be a legitimate claim or "entitlement" to the benefit under state or federal law. *Bd. of Regents v. Roth*, 408 U.S. 564 (1972).

An example of a property interest is continued public employment; if an employee already has the job, then she may have a property interest that entitles her to fair procedures before that job can be taken away. When there is a state statute that creates a public employment contract in which an employee may only be fired for "cause," there is a property interest. *Arnett v. Kennedy*, 416 U.S. 134 (1974).

Once you determine that a person's property interest is being impaired, you have to determine exactly what "process" the person is entitled to receive. Proper process typically involves two requirements: (i) notice; and (ii) an opportunity to respond before the termination of that interest. For example, a public employee who is subject to removal only for "cause" (and who, therefore, has a property interest in his job) generally must be given notice of charges against her that are to be the basis for her job termination, and a pre-termination opportunity to respond to those charges. However, the court may allow a post-termination hearing in situations where a pre-termination hearing is highly impracticable.

Due process requires an opportunity to present objections to the proposed termination to a fair, neutral decision-maker (not necessarily a judge). Fair process in terms of the timing and scope of the hearing varies according to the circumstances of the deprivation. The court should conduct a balancing test and weigh: (i) the importance of the individual interest involved; (ii) the value of specific procedural safeguards to that interest; and (iii) the governmental interest in fiscal and administrative efficiency. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

C is correct. In this case, the employee was not given any kind of hearing or opportunity to respond before her dismissal, rather, the hearing took place three months after her termination became effective. And there is no evidence that a pre-termination hearing would have been highly impracticable. Therefore, the court should hold the statute unconstitutional on the basis that it is a violation of the Due Process Clause of the Fourteenth Amendment.

A is incorrect. The case is ripe for adjudication and therefore, the court should hear the case. It is not required that all judicial remedies in state courts be fully exhausted before a federal court may hear a case. The federal judiciary has the power to hear cases arising under the Constitution. And, for a case to be ripe and thus sufficiently concrete to be worthy of adjudication, there must be at least a reasonable probability of reasonably specific harm (or actual harm). Here, the teacher has been injured by being terminated, so her controversy is ripe. She does not need to wait for the state to fail to correct her termination before proceeding in federal court.

B is incorrect. This answer reaches the correct answer with the wrong reasoning. The statute is unconstitutional because it amounts to a deprivation of the teacher's property interest in continued public employment. There is no standard in place requiring a state to demonstrate the facts constituting good cause for termination of a state employee beyond a reasonable doubt. Typically, the court will conduct a balancing test between: (i) the importance of the individual interest involved; (ii) the value of specific procedural safeguards to that interest; and (iii) the governmental interest in fiscal and administrative efficiency. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

D is incorrect. This is a misstatement of the law. The Due Process Clause of the Fourteenth Amendment does not merely entitle employees who have a right to their jobs during good behavior to a statement of reasons for their dismissal and an opportunity for a post-dismissal hearing. Rather, such employees are entitled to notice and a pre-termination opportunity to respond. Although the court may allow a post-termination hearing when a pre-termination hearing is highly impracticable, there are no facts here to suggest this is the case.
