

A state statute provides financial aid for tuition, books, and other academic materials to students who are accepted into one of the state's universities. The state statute lists several requirements for a student to receive this financial aid. One of the requirements is that the student be a citizen of the United States or a resident noncitizen who has applied for citizenship.

A teenager was accepted into one of the state's universities and applied for financial aid pursuant to the state statute. However, his application was denied solely because he is a resident noncitizen who has not applied for United States citizenship. The teenager filed suit in federal court to challenge the constitutionality of the state statute's provision relating to United States citizenship.

Will the federal court likely find the provision to be constitutional?

- A. No, because the state likely cannot show that the provision is necessary to achieve a compelling government interest.
- B. No, because this type of arbitrary classification is barred by the Article IV privileges and immunities clause.
- C. Yes, because the Fourteenth Amendment does not apply to resident noncitizens.
- D. Yes, because the provision is reasonably related to a legitimate state interest.

### Explanation:

The state statutory provision is **discriminatory** since it grants tuition assistance to U.S. citizens and resident noncitizens who have applied for citizenship—but not resident noncitizens who have not sought citizenship. As a result, it can be challenged under the Fourteenth Amendment **equal protection clause**.

The court will impose **strict scrutiny** since citizenship is a **suspect class (Choice C)**. Under this test, the state bears the **nearly impossible burden** of proving that the law is **necessary** to achieve a **compelling state interest**. As a result, this statutory provision—like most laws subject to strict scrutiny—is likely unconstitutional.

**(Choice B)** The Article IV **privileges and immunities clause** prohibits states from creating arbitrary classifications that discriminate against citizens of other states. But noncitizens (and corporations) are not protected by this clause.

**(Choice D)** The statutory provision would be valid under the *rational basis* test if it was reasonably related to a legitimate state interest. But this minimal scrutiny only applies to laws that do *not* discriminate against a suspect or **quasi-suspect class** or substantially impact a fundamental right.

### Educational objective:

Laws that discriminate against a suspect class are subject to strict scrutiny, which requires the government to prove that the law is necessary to achieve a compelling government interest. Since this standard is nearly impossible to meet, these laws are almost always struck down.

### References

- *Nyquist v. Mauclet*, 432 U.S. 1, 8–9 (1977) (applying strict scrutiny to invalidate a state statute that denied tuition assistance to resident noncitizens not seeking citizenship).

## Levels of equal protection review

