

A state law provides some funding for public schools on a per-student basis from general state revenues, which primarily come from the state income and sales taxes. The law also provides that all other public monies used to support public schools in the state come from locally levied real estate taxes. This results in a large disparity in per-student funding among the state's many public school districts because some districts have higher property values per student than other districts.

Public school students who claim to be disadvantaged by this school-funding law have challenged the law solely on the ground that it violates the Fourteenth Amendment's equal protection clause.

Which of the following best states the burden of persuasion in this action?

- A. The state must demonstrate that the law is necessary to vindicate a compelling state interest.
- B. The state must demonstrate that the law is rationally related to a legitimate state interest.
- C. The students must demonstrate that the law is not rationally related to any legitimate state interest.
- D. The students must demonstrate that the law is not substantially related to an important state interest.

## Explanation:

### Equal protection

(standards of review)

Standard	Applicability	Test
<b>Rational basis</b>	Default test	<i>Challenger</i> must show <ul style="list-style-type: none"><li>• action is not rationally related to legitimate government interest</li></ul>
<b>Intermediate scrutiny</b>	Discriminates against quasi-suspect class: <ul style="list-style-type: none"><li>• Sex/gender</li><li>• Legitimacy</li></ul>	<i>Government</i> must show <ul style="list-style-type: none"><li>• action is substantially related to important government interest</li></ul>
<b>Strict scrutiny</b>	Discriminates against suspect class: <ul style="list-style-type: none"><li>• Ethnicity</li><li>• Citizenship (state law only)</li><li>• Race</li><li>• Nationality</li></ul> Impacts fundamental right ( <b>First VIP</b> ): <ul style="list-style-type: none"><li>• <b>F</b>irst Amendment rights</li><li>• <b>V</b>oting</li><li>• <b>I</b>nterstate travel</li><li>• <b>P</b>rivacy: family, marriage, parental rights, sexual acts, contraceptives</li></ul>	<i>Government</i> must show <ul style="list-style-type: none"><li>• action is necessary (ie, least restrictive means)</li><li>• to achieve compelling government interest</li></ul>

An **equal protection** challenge requires proof that the law (1) is discriminatory—ie, treats similarly situated people differently—and (2) lacks adequate justification. The required justification depends on whether the law substantially impacts a **suspect class or fundamental right** (triggering strict scrutiny) or a **quasi-suspect class** (triggering intermediate scrutiny). If it does **not**, then the challenger must satisfy the **rational basis test**.

Here, the students challenged a state law that results in a large disparity in per-student funding among the state's public school districts. But education is not a fundamental right, and the funding disparities are not alleged to affect a suspect or quasi-suspect class (no strict or intermediate scrutiny) **(Choice A)**. Therefore, the court will apply the rational basis standard—ie, the burden of persuasion is on the students (not the state) to demonstrate that the school-funding law is *not* rationally related to *any* legitimate state interest **(Choice B)**.

**(Choice D)** The burden would be on the *state* to demonstrate that the law is not substantially related to an important state interest (ie, intermediate scrutiny), had the law affected a quasi-suspect class.

**Educational objective:**

A discriminatory law can be challenged on equal protection grounds and is generally reviewed under the rational basis test. However, a more stringent level of review will be used when the law substantially impacts a quasi-suspect class, suspect class, or fundamental right.

**References**

- U.S. Const. amend. XIV, § 1 (equal protection clause).
- San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 28, 37 (1973) (holding that disparities in public school funding do not implicate a protected class or fundamental right).

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