

A federal statute enacted pursuant to the power of Congress to enforce the Fourteenth Amendment prohibits any state from requiring any of its employees to retire from state employment solely because of their age. The statute expressly authorizes employees required by a state to retire from state employment solely because of their age to sue the state government in federal district court for any damages resulting from that state action.

On the basis of this federal statute, a retiree sues State X in federal district court. State X moves to dismiss the suit on the ground that Congress lacks authority to authorize such suits against a state.

Which of the following is the strongest argument that the retiree can offer in opposition to the state's motion to dismiss this suit?

- A. When Congress exercises power vested in it by any provision of the Constitution, Congress has unlimited authority to authorize private actions for damages against a state.
- B. When Congress exercises power vested in it by the Fourteenth Amendment, Congress may enact appropriate remedial legislation expressly subjecting the states to private suits for damages in federal court.
- C. While the Eleventh Amendment applies to suits in federal court by citizens of one state against another state, it does not apply to such suits by citizens against their own states.
- D. While the Eleventh Amendment restrains the federal judiciary, that amendment does not limit the power of Congress to modify the sovereign immunity of the states.

## Explanation:

### Eleventh Amendment

(state immunity from suit in federal court)

<b>Immunity</b>	<ul style="list-style-type: none"><li>• Suit brought by private party or foreign government</li><li>• Suit against state official violating state law</li><li>• Exceptions:<ul style="list-style-type: none"><li>– State consents to suit</li><li>– Immunity removed by 13th, 14th, or 15th Amendment</li><li>– State official sued for injunctive or declaratory relief</li><li>– Damages to be paid by state officer personally (not state treasury)</li><li>– State official sued for prospective (not retroactive) damages to be paid by state treasury</li></ul></li></ul>
<b>No immunity</b>	<ul style="list-style-type: none"><li>• Suit brought by United States or other state</li><li>• Suit against local government (eg, counties, municipalities)</li><li>• Bankruptcy proceedings</li></ul>

The **Eleventh Amendment** generally forbids the federal courts from hearing private suits for damages against the states. **Congress cannot override** this ban, even to exercise one of its constitutionally enumerated **powers (Choices A & D)**. But there is a **narrow exception** to this rule when Congress is clearly acting to **enforce** the **Civil War Amendments** (eg, Fourteenth Amendment—as seen here). In that case, it may enact appropriate remedial legislation expressly subjecting the states to private suits for damages in federal court.

**(Choice C)** The Eleventh Amendment applies to *all* private suits for damages against the states—including suits by citizens against their own state. But it does not bar Congress from authorizing such suits as a means of enforcing the Civil War Amendments.

### Educational objective:

The Eleventh Amendment generally forbids the federal courts from hearing private suits for damages against the states. But Congress can authorize such suits when it is clearly acting to enforce the Civil War Amendments (ie, Thirteenth, Fourteenth, and Fifteenth Amendments).

### References

- United States v. Georgia, 546 U.S. 151, 158–59 (2006) (explaining that the Fourteenth Amendment allows Congress to abrogate state sovereign immunity by authorizing private suits for damages against the states).

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