

In order to ensure the high quality of tutors in state public schools, a state law requires public schools to hire only tutors licensed by the state. To obtain a license, a tutor is required to achieve a passing score on a state-administered exam in the tutor's area of specialty. On several occasions, an organization representing tutors licensed in the state has successfully lobbied against proposed legislation that would have eased the licensing requirement.

An out-of-state tutoring company would like to conduct business in the state, but very few of its tutors are licensed by the state. The company has sued to challenge the law.

Is the company likely to prevail?

- A. No, because the law is rationally related to a legitimate state interest. (78%)
- B. No, because the law is substantially related to an important state interest. (9%)
- C. Yes, because the law serves the special interests of licensed tutors rather than a legitimate government interest. (1%)
- D. Yes, because the law violates the privileges and immunities clause of Article IV. (11%)

Correct

78% Answered correctly

01 min, 04 secs Time Spent

2023 Version

Explanation:

Under the Fourteenth Amendment **equal protection** clause, **discriminatory government actions** are usually subject to minimal scrutiny under the **rational basis test**. Since this test presumes that the government's actions were constitutional, it requires the challenger to show that the government action has **no rational relation** to any **legitimate government interest**.

Here, the out-of-state tutoring company challenged the state law requiring public schools to hire only tutors licensed by the state. The law is discriminatory because it prevents tutors not licensed by the state from tutoring in the state's public schools but allows licensed tutors to do so. But the law's requirement that a tutor pass a state exam in the tutor's respective area of specialty is rationally related to the state's legitimate interest in ensuring the high quality of tutors in its public schools. Therefore, the company is unlikely to prevail.

(Choice B) Intermediate scrutiny requires the government to demonstrate that its action is substantially related to an important state interest. But this heightened level of scrutiny only applies when the law substantially impacts a [quasi-suspect class](#) (not seen here).

(Choice C) The state law likely serves the special interests of licensed tutors by barring competition from unlicensed tutors. Nevertheless, the law is constitutional because it also is rationally related to the state's legitimate interest in ensuring high-quality tutors in its public schools.

(Choice D) The Article IV privilege and immunities clause prohibits states from discriminating against out-of-state residents by denying them a [right of state citizenship](#). But since this state law does not discriminate against out-of-state residents—the licensing requirement applies equally to in-state and out-of-state residents—this clause does not apply.

Educational objective:

Equal protection challenges are generally subject to rational basis scrutiny, which requires the challenger to prove that the discriminatory government action has no rational relation to a legitimate government interest.

References

U.S. Const. amend. XIV, § 1 (equal protection clause).

Heller v. Doe, 509 U.S. 312, 319–20 (1993) (explaining that a government action is valid if "there is any reasonably conceivable state of facts that could provide a rational basis for the classification").

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Levels of scrutiny under equal protection clause

