

**FINAL EXAM**

General Instructions:

This is a 3 hour closed book exam. A copy of the U.S. Constitution will be distributed and may be used during the entire exam.

The exam is in two parts; each is worth 50% of the exam grade. You will have 1½ hours for Part I and 1½ hours for Part II. Part I will be collected after 90 minutes; Part II will then be distributed.

In answering this exam, you should invoke prevailing law. Where divergent approaches may apply, you should select that which a majority of the Supreme Court currently accepts.

Instructions for Part I

Part I is a standard essay exam, consisting of a single fact pattern.

In answering Part I, please bear in mind that conclusory answers (answers without analysis) generally deserve little credit. You must explain your answers. If you choose to discuss historical approaches, trends, or minority rules, you should clearly indicate that you are doing so.

Do not assume additional facts unless you feel they are absolutely necessary to your analysis; in which case, clearly state the additional facts being assumed, and why.

Put all of your answers in blue books (or typed/computer pages). Scratch paper will not be read. Please write only on one side of the page. You may use the back side for elaboration or correction.

**Please write (or type) legibly.**

## Part I – Essay (90 minutes)

The Education Reform Act of 2005 (ERA) states:

Section 1: Congress finds that education must remain a national priority in the 21<sup>st</sup> century in order to maintain America’s leadership in the global economy, to protect national security, to promote the general welfare, and to fulfill the promise of democracy. Schools that fail to provide quality education to their students are, in effect, denying them equal protection of the law.

Section 2: The Department of Education (DOE) shall issue curriculum and testing standards for all public primary and secondary schools in the United States in the areas of reading, writing and math, as will prepare students for the 21<sup>st</sup> century.

Section 3: States shall have primary responsibility for enforcing DOE standards in their schools. Any State that declines to do so shall notify the Secretary of Education, who shall then assume responsibility for enforcing the standards.

Section 4: Any person aggrieved by a violation of this Act may bring suit in U.S. District Court. The District Court shall strictly construe the requirements of this Act and shall issue injunctive relief, damages, or other appropriate relief.

Shortly after ERA was signed into law, U.S. Secretary of Education Rod Paige issued the DOE regulations. One of the new rules is that “any course in which evolution is taught must also provide instruction in creation science.” Creation science is defined by DOE as “scientific evidence that the Universe and life on earth were created by God.” Paige also stated that he may withhold federal education funds from any state that violated ERA.

Cascade Governor Maria Shriver (Cascade is one of the 50 states) has ordered the public schools in her state not to comply with ERA or DOE regulations. She noted that the state constitution forbids any religious instruction in the state’s public schools. She notified Secretary Paige that Cascade would not be enforcing DOE standards.

Secretary Paige is yet to take any action against Cascade. However, the Traditional Values Coalition (TVC) has filed suit in U.S. District Court against Governor Shriver, the State of Cascade, and several school districts. The suit asks the court to order defendants to comply with ERA and DOE, and to order the forfeiture of all federal education assistance to Cascade. TVC is an organization comprised of Cascade public school parents.

Defendants contend that ERA and the DOE regulations are unconstitutional.

How is the District Judge likely to rule?