

Sample Judges' Questions for Competitors

By Danielle Pathos, 3L MHSL

Introduction and Relevant Law:

- What specific constitutional rights are alleged to have been violated in this case?
- How does the McGee Charter School Act define a "charter school," and who can establish a charter school according to McGee Statutes Section 125.005?
- What are the key components of a charter school's hiring process and employment contract, as outlined in McGee Statutes Section 125.007?

The First Amendment claim:

- Under the Free Exercise Clause, what actions by the state regarding private education are prohibited once a state decides to subsidize private education?
- How does *Espinoza v. Montana Department of Revenue* impact the present case, especially in terms of the disqualification of private schools based on religious affiliation?
- In *Carson v. Makin*, what key constitutional principle did the Supreme Court uphold, and how does it relate to the Free Exercise Clause?

42 U.S. Code Section 1983 and Relevant case law:

- What is the primary purpose of 42 U.S. Code Section 1983, and under what circumstances can it be invoked?
- Summarize the key holding in *Rendell-Baker v. Kohn* regarding when private conduct constitutes "state action" under the Fourteenth Amendment?
- How does the decision in *Peltier v. Charter Day School* contribute to the understanding of the application of Section 1983 to actions of public-charter schools?

Free Exercise Clause and Funding Restrictions:

- In *Espinoza*, the Supreme Court held that disqualifying private schools from receiving public funds based on religious affiliation triggers strict scrutiny. How might this precedent be applied to the McGee state law provision, and what implications does it have for the First Amendment claim?

State Action Analysis—Rendell-Baker and Peltier:

- In *Rendell-Baker v. Kohn*, the Court emphasized the need for significant government involvement or coercion for private conduct to be considered state action. Applying this standard, how does the court evaluate the actions of Saint Baudolino Community School and the Eternalist Educational and Outreach Foundation?
- Drawing parallels with *Peltier v. Charter Day School*, how does the court distinguish between actions that constitute state action and those that remain within the realm of private conduct, especially in the context of a charter school's dress code versus an employment decision?

Section 1983 and Employment Decision:

- According to Section 1983, private entities may be held liable if their actions are deemed to be "under color of law." How does the court determine whether an employment decision by a charter school, in this case, falls under "state action" for the purposes of Section 1983 liability?
- Compare the facts of *Rendell-Baker v. Kohn* with the employment decision made by Saint Baudolino Community School in rescinding Lenore Maxwell's offer. What similarities or differences might be crucial in assessing state action?