

Question I (Tow Truck Licensing Law) (48 points)

- Dormant Commerce Cl-applies even to local ordinance------(1) 1
  - Eco Protectionism-illegit purpose, safety or prevent competition from out-of-staters?----(4) 2
  - Discrimination-facial (all must be licensed) vs in effect (burden on o-o-s, pass thru, etc.)(5) 4
  - Strict test (if discrim)- legit local purpose? reasonable nondiscrim alt means?------(4) 3
  - Balancing test-Burdens-\$, licensing even if "passing through" or tow only a few times--(4) 3
  - Benefits - safety (avoid tow truck "racing" accidents like the one that occurred)------(4) 2
  - Preemption - valid fed'l law?------(3) 1+2
  - Express preemption/nonpreemption provision - safety - is this safety?------(4) 3
  - If not express - implied? - conflict - can't comply with both? conflict in purpose?------(4) 2
  - Implied - Occupation of Field? Is state or federal interest dominant?------(4) 3
  - P and I-no discrim ag oos residents, everyone needs license (but if applies)------(4) 1
  - DP/EP-eco rt, can towing law satisfy rational basis?-rationally related to legit purpose---(4) \_\_\_\_\_
  - Miscellaneous \_\_\_\_\_(3) \_\_\_\_\_
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Question II (Federal Single Sex Educational Opportunity Act) (60 points)

- 1) Com Cl- category 3, local activity, eco/noneco, could Congress rationally conclude....(4) \_\_\_\_\_
  - Is education an economic or a noneconomic activity?------(4) 2+1
  - If eco-sub'l effect on IC in aggregate?------(4) \_\_\_\_\_
  - If noneco, Lopez factors, no jur element, no findings, trad'l st function, attenuated link?-(8) 6
  - 2) Spending clause - grants to schools on condition - apply 4 part Doe test - gen'l welfare, unambiguous, rationally related to purpose of spending, independent const'l bar (EP),---(6) 5
  - 3) EP-gender; intermediate, apply to facts; perpetuate stereotypes?, alts?, sep but equal?-(6) 3
  - 4) 10th Amend-state emp'ees (teachers/admins) to implement fed law-commandeering?-(4) 2
  - Reg state's own activities-Condon vs. require states to "regulate"? their citizens-Printz--(3) \_\_\_\_\_
  - 5) If applied to private also-argue regulating all underperforming schools, pub & private-(4) 1
  - 6) EP/DP-random (rational- all applicants get same chance) (not a class so DP not EP)---(3) 2
  - Weakest students 1st-rat'l relationship betw class of low rank & helping students achieve(3) 2
  - 7) EP-racial discrim-strict scrutiny - compelling interest? educate minority students?------(4) 2
  - Least restrictive means- race neutral means? Less race conscious than quota?------(4) 3
  - Miscellaneous \_\_\_\_\_(3) \_\_\_\_\_
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Question III (Law 911 - vasectomy regulation) (36 points)

- Due Process - rt to have vasectomy-is it a fund'l unenumerated rt- identification of issue(1) 1
  - History/Tradition of allowing men to have vasectomies (narrow tradition) vs. broad tradition (history/tradition of allowing people to decide whether to bear a child; marital privacy)--(5) 2+1
  - Precedent-Griswold (rt to procreate/not), Roe (abortion for men?), Michael H, Lawrence(5) 2
  - Right that is central to personal identity- decision not to bear child as in Roe------(4) 2
  - Undue burden test-less than total ban; applied to Informed Consent/Spousal Notification(6) 3
  - Strict scrutiny-applied to facts- compelling gov't interest, least restrictive alternative------(6) 3
  - Rational basis review - applied to Informed Consent and Spousal Notification------(6) 3
  - Miscellaneous \_\_\_\_\_(3) \_\_\_\_\_
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