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===== Start of Answer 4 (1340 words) =====

1. Did City High's termination of Paige (P) without a hearing violate the procedural due process guaranty of the 14th Amendment to the US Constitution•

Procedural Due Process Clause

The Procedural Due Process Clause (DP) ensures that individuals have the right to life, liberty, and freedom. If the state attempts to deprive an individual of their right to life, liberty, and freedom they must have a compelling reason to do so. The DP clause provides that state workers shall not be fired without notice and the opportunity to be heard in a fair trial or grievance hearing. There are reasonable exceptions to this, such as an at will employee. Here, Bob and Paige have sued State X, City High, and the Attorney General seeking damages and injunctive relief based on the at will termination of Paige prior to the end of her first year employment with the school. Paige is a probationary teacher that may be terminated for ANY reason upon written notice within the first year of employment. Bob has been a teacher at City High for the past three years. Thus, since Paige was an at-will employee, there has been no violation of the DP clause because she was not entitled to a hearing prior to termination. However, the legislation might violate the DP clause because it deprives individuals of the freedom to work.

State Action

In order to trigger a constitutional analysis there must be state action. Here, City High is a public school in State X. Thus, there is state action.

no termination without due process for state employees

Under the procedural DP clause there can be no termination of state employees without notice and the termination must generally be for cause. This means that if a state employee is an at-will employee that can be terminated without cause, they are not entitled to a hearing prior to termination. Here, Paige was not offered a termination hearing. This would violate the DP clause had she not been an at will employee. However, since she was still in the probationary period, City high could terminate her without cause.

one year probationary at will clause

Here, State X provides a probationary period in which teachers can be fired without cause (at will) within the first year of employment. Paige was terminated via written notice during her first year of employment. The scenario seems to suggest she was fired for her involvement at community and school board meetings in which she spoke out against the withholding of salaries. However, as a first year employee she may be fired without cau

Substantive due process

The substantive due process clause ensures that individuals are not deprived of

fundamental rights. The Supreme court has determined that there are certain rights that are fundamental. The right to work, vote, use contraceptives, abortion, marriage, consensual sexual relations, raise children, and travel are just some of the rights deemed fundamental. Here, the legislation seems to limit the right to work because it deprives workers of a salary when the school falls below established standards. When that happens the teacher has 10% of her salary withheld for up to two years. This deprivation likely goes to the liberty clause of the **procedural** and substantive due process clauses. Paige and Bob both have a right to obtain gainful employment and to the funds they earn. The school cannot just withhold those funds in an effort to force these teachers to "teach better." Thus, the legislation probably violates the constitution.

Freedom of speech

The first amendment Guarantees the freedom of association and speech. Here, Paige and Bob participated as outspoken opponents of the state X law. The school likely fired Paige because of her involvement in these events. Paige has the freedom to express herself at these events and if she were not an at will employee she could not be fired because of her involvement. This is most likely the reason why Bob, who has been employed for more than a year, was not terminated. However, since paige is an at-will employee she was fired "without cause."

2. How should the court rule on the State and the AG's motion to dismiss the suit based on standing and the Eleventh Amendment•

Justiciability

In order for a case to be justicible the plaintiff's must have standing to bring the suit. The justiciability doctrines include abstention, standing, sovereign immunity, ripeness and mootness among other doctrines. Here, the AG and State are alleging that Bob and Paige do not have standing. Further, they are also invoking the doctrine of sovereign immunity (SI) throughout the 11th amendment.

Standing

In order to bring suit a party must have standing. Standing requires that there be 1) an actual injury, 2)causation, and 3) repressibility. Here, Paige has standing, but it is unlikely that Bob has standing to bring this suit.

Injury

A plaintiff must suffer an injury in order to have standing. The injury must be actual or imminent. A speculative or minimal injury is not enough to meet the requirements for standing. The party must actually be harmed. Here, Paige and Bob have sued state X seeking damages and injunctive relief. It is clear that Paige is bringing suit because she was terminated from her employment without a hearing and most likely because of her involvement in activities in which she spoke out against the state legislation. Paige has suffered an injury, she was actually fired. Courts tend to treat economic injuries as more important than other injuries. Thus P meets the injury requirements.

Bob is bringing suit with Paige. It appears that Bob is challenging the constitutionality of the legislation itself. The legislation deprives Bob of his income when the school falls below a certain requirement. Thus, if Bob is only challenging the legislation through joining the AG and State, he has suffered an actual injury because of the legislation. However, if Bob is suing the school because of Paige's termination without a hearing, he has not actually suffered an injury. He is not injured by the fact that she was terminated without a hearing.

Causation

A plaintiff must show that the defendant caused the injury to them. The causation must be direct, not indirect. Here, Paige lost income because the school fired her without a hearing. Furthermore, the state and AG were the ones that enacted the legislation, so they were the direct cause of the harm to both her and Bob. Thus, there is direct causation.

Redressibility

A plaintiff must show that the claim is redressible in order to have standing. Here, Paige and Bob are seeking injunctive relief and damages. They likely want compensation for the amount of money the school has deprived from them and want an injunction declaring the law unconstitutional. Injunctive relief is founded in equity and in order to seek injunctive relief a party must show irreparable harm and likelihood of success on merits. Here, Paige is facing irreparable harm if terminated without a hearing. Further she and Bob have a chance of success on the merits because the legislation likely violates the 14th amendment. Thus, both P and B can show redressibility.

in conclusion, Bob does not have standing to address Paige's termination but Paige does. Further, Bob and Paige both have standing to challenge the constitutionality of the law.

11th Amendment/Sovereign Immunity (SI)

States, tribes and the federal government have sovereign immunity. SI stems from the notion that "the king can do no harm." However, in modern days, courts have allowed SI to be waived through express and implied conduct. Consent to suit can be implied, but it is usually express. Furthermore, under *ex parte Young*, state officials acting in their official capacity may be sued even if the state invokes the doctrine of SI. Here, state X did not consent to suit by express or implied waiver. Thus, State X can properly assert SI and are shielded from suit. However, the AG is a state official being sued in his official capacity. Thus, the AG cannot invoke SI and must litigate this case.

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