

CONSTITUTIONAL LAW QUESTION

There are two nursing schools in State A: Public Nursing School (Public) and Private Nursing School (Private). Public is an agency of the state government, and all its faculty and staff are state employees. Private is owned by a private corporation and receives no direct funding from the state. The State A Board of Education regulates the curriculum of each nursing school and certifies all graduates of the two nursing schools as eligible to become licensed nurses in State A.

Both Public and Private have a long-standing policy of restricting admission to women. Neither school has ever admitted a male applicant. There has been general discrimination against women in State A in the health care field. Historically, however, 95 percent of State A nurses have been female.

A male resident of State A wants to be a nurse. The man first applied to Private and was denied admission. His rejection letter from Private stated that he was “not eligible to enroll because Private was established as an all-female institution and does not admit or enroll male students.”

The man next applied to Public and was again denied admission. His letter from Public stated that “you are not eligible to enroll because Public does not enroll male students. Mindful of the historical discrimination that women have faced in State A, our state has established Public to remedy this discrimination and provide opportunities for women who want to work in the growing field of health care as nurses.” The letter continued, “Because your grades and test scores would have been sufficient to admit you if you were female, we offer you admission to our new Male Nursing Opportunity Program instead.”

The Male Nursing Opportunity Program allows male residents of State A to become nurses by studying at a nursing school in an adjacent state. Graduates of the program are certified by the State A Board of Education as eligible to become licensed nurses in State A. However, the Male Nursing Opportunity Program facilities are not as modern as those at Public, the faculty is not as experienced, and graduates of the Male Nursing Opportunity Program do not enjoy the same employment opportunities as graduates of either Public or Private.

1. Has Private violated the man’s rights under the Equal Protection Clause of the Fourteenth Amendment? Explain.
2. Has Public violated the man’s rights under the Equal Protection Clause of the Fourteenth Amendment? Explain.