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**===== Start of Answer 4 (1018 words) =====**

1. The first issue is whether City High's termination of Paige without a hearing violated the procedural due process guaranty of the 14th Amendment.

In order for a court to find a violation of the 14th Amendment, there must be state action. When a government employee has a vested expectation interest in keeping his or her employment, the employee cannot be fired without cause. This expectation can be an express understanding, such as a written guarantee in an employment contract, or implied, such as an understanding among a state department and its employees that those who have been working within the department for a certain number of years have gained tenure and will not be fired without cause. Under the 14th Amendment procedural due process clause, when a government employee has a vested expectation interest in his or her job, that employee must be given notice and a hearing before the government can terminate the employee from his or her position. Public school teachers are government employees because public schools are regulated and managed by the state.

State Action

Here, Paige was a teacher at City High, a public school in State X. State X has a valid contract with public school teachers providing a fixed salary, and State X regulates and manages its public schools. Public school teachers are regarded as state employees. Accordingly, Paige was a state employee and the actions of City High are considered state actions.

Therefore, there is state action.

Vested Interest

Here, the facts specify that Paige was a probationary teacher at City High, and that probationary teachers may be terminated for any reason upon written notice within their first year of employment. Paige was served with written notice terminating her employment before the end of her first year of employment. Although the facts do not specify whether Paige's contract expressly provided that she could be terminated for any reason upon written notice of termination, Paige cannot rely on an implied vested expectation interest to her job because she was a probationary teacher. Paige was properly served with written notice terminating her employment. The fact that Paige was a highly-regarded teacher has no impact on the school's right to terminate her without cause. Because Paige did not have a vested expectation interest in her job, City High was not required to provide her with a hearing before terminating her employment.

Therefore, City High's termination of Paige without a hearing did not violate the procedural due process guaranty of the Fourteenth Amendment.

2. The second issue is how the court should rule on the State and the Attorney General's motion to dismiss Bob and Paige's suit based on standing and the 11th Amendment.

A. Standing

In order for a plaintiff to have standing, there must be (i) state action, (ii) an actual or imminent injury, and (iii) the injury must be capable of being redressed. The injury may be actual or imminent. An injury is capable of being redressed if court action would relieve the plaintiff's injury or compensate the plaintiff by making him or her "whole".

i. State Action

The rules for finding state action are discussed above.

Here, State X recently passed legislation providing that when a public school falls below certain established standards, each teacher at that school will have 10% of his or her salary withheld each pay period for a maximum of two years. Bob and Paige's suit is based on the enforcement of this legislation. Bob and Paige are teachers at City High, a public school in State X where salary withholding has begun. Bob and Paige are suing State X, the Attorney General, and City High seeking damages and injunctive relief.

Therefore, there is state action.

Injury

Here, the salary withholding has begun at City High, so 10% of City High teachers' salaries are being withheld. At the end of two years, the money is returned with interest upon completion of a 10 hour certification program or termination of employment. The state will argue that this legislation is reasonable because the 10% is eventually returned, the two year time period is not excessive, and the state has an interest in improving the quality of its public schools by requiring teachers at under performing schools to complete the certification program. However, even though the money is eventually returned, I believe this qualifies as an injury because teachers have a right to be paid for their work and the legislation is overbroad because it applies to all teachers at under performing schools, not just the teachers who need more training to competently instruct their students.

As for who has been injured, Bob has been working at City High for three years and the facts do not indicate that his employment has been terminated. His salary was withheld and has not yet been returned. However, as discussed above, Paige has been terminated. She was already refunded 10% of her withheld salary with interest.



ID: [REDACTED] (CALBAR\_7-16\_Q4-6) July 2016 California Bar Examination

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Accordingly, Bob has an actual injury, but Paige does not. Paige will not have standing.

Redressability

Here, the court would be able to redress Bob's injury by invalidating the recent legislation or granting Bob injunctive relief.

Accordingly Bob's injury is capable of being redressed. Paige's injury cannot be redressed because Paige does not have an injury.

Therefore, the court should rule that Bob has standing, but that Paige does not.

B. 11th Amendment

Under the 11th Amendment, states cannot be sued for money damages without the state's consent. This is known as state sovereign immunity. Subdivisions of a state, such as cities and towns, do not have sovereign immunity.

Here, Bob and Paige are suing State X, the Attorney General, and City High for damages and injunctive relief. State X and the Attorney General moved to dismiss based on standing and the 11th amendment. Only Bob has standing. Bob cannot sue State X for money damages under the 11th Amendment, but will be able to sue for injunctive relief.

Accordingly, the court should rule that the 11th Amendment does not preclude Bob from suing, but Bob can only sue for injunctive relief, not for money damages.

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Question #1 Final Word Count = 1018

===== End of Answer #4 =====