

Question I (graduation prayer) (30 points)

standing-student-noneconomic-change in behavior-not attending grad-also taxpayers----(3) \_\_\_\_\_  
standard-estab cl-purp & effect; effect + gov't endorsemt of relig-obj observer w/knowl-(3) \_\_\_\_\_  
football prayer case-whether the prayer is attributable to school or student speaker------(2) \_\_\_\_\_  
school arg-prayer not official part of grad, speaker not elected, chosen by grades, no guidelines  
for speech, rev by principal not school approval, future speakers won't include religion-(5) \_\_\_\_\_  
private speech so no limit-can proselytize, pray including sectarian prayer------(2) \_\_\_\_\_  
no appearance of endorsement-those attending know remarks are views of valedictorian-(2) \_\_\_\_\_  
Johnson arg-suspicious history-when prayer eliminated, valedictorian included religion--(2) \_\_\_\_\_  
attribution-official event, student on program-2<sup>nd</sup> yr, advance knowledge of principal------(4) \_\_\_\_\_  
principal reviews-power to censor so refusal to do so is approval of religious content------(2) \_\_\_\_\_  
not a pub forum-no speech rt; not available to others; no disclaimer of endorsemt of relig(3) \_\_\_\_\_  
miscellaneous \_\_\_\_\_ (2)

Question II (eagle feathers) (40 points)

Free Exercise-direct burden on sincerely held religious beliefs------(4) \_\_\_\_\_  
Smith-does it apply-crim law of gen'l app-has exemption-nonneutral?-status not religion(5) \_\_\_\_\_  
if neutral-rational basis and rational means of enforcing treaty obligations------(4) \_\_\_\_\_  
if not neutral, use strict scrutiny-compelling reason(treaty) & necy not to grant exemption to  
nonIndians, but if can grant to some members of Native American religion, why not all?(5) \_\_\_\_\_  
Estab Cl-Accommodation-secular purpose-to protect Indian culture; effect-allow Indians to  
advance own religion and no excessive entanglement by exempting Indians------(5) \_\_\_\_\_  
Kennedy accommodation test-lifts specific burden, no burden shifting, no discrimination(3) \_\_\_\_\_  
apply test-identifiable burden, no shifting-any evid won't grant to other religions?, no discrim ag  
sim situated, based on Indian identity not Native American religion, discrim ag converts-(5) \_\_\_\_\_  
will Estab Cl help H, won't it just strike down existing exception & not add broader one?(3) \_\_\_\_\_  
denominational pref-strict scrut, not all members of religion only Indians-racial not religious  
preference, but if pref justified by special guardian/ward relationship------(3) \_\_\_\_\_  
miscellaneous \_\_\_\_\_ (3)

Question III (Faith Works) (50 points)

Free Ex-burden-sincerely held religious belief-M is atheist-no burden on religious belief-(5) \_\_\_\_\_  
if applies-neutral law of gen'l app-everyone must enroll in available training program-----(2) \_\_\_\_\_  
enrollment is rationally related to state interest in getting people off welfare------(3) \_\_\_\_\_  
any individualized rev as in unemployment cases? if yes, strict scrut & applied to facts---(4) \_\_\_\_\_  
Estab. Cl-funding of relig orgs-on face-sec. purpose-help indigents get jobs & off welfare(3) \_\_\_\_\_  
effect-neutrality-orgs that get funds aren't chosen for relig affiliation-just no exclusion---(3) \_\_\_\_\_  
Bowen-ok on face, ok to include religious orgs in providers of services under govt grants(2) \_\_\_\_\_  
broad group of grant recipients-only 20 percent faith-based, but no private choice------(2) \_\_\_\_\_  
as applied-direct funding-pervasively sect org-state \$ paying for relig indoctrination(RI)?(3) \_\_\_\_\_  
TOWER bans funding for RI, but can 2 be separated as to counselors-20/80 split, pay 50(4) \_\_\_\_\_  
indoctrination?no-spirituality but not religion, yes, religious beliefs-Christian faith-Bible(4) \_\_\_\_\_  
entanglemnt-same monitoring of all orgs-not pervasive-audits if a problem; admin coop--(4) \_\_\_\_\_  
Need pervasive monitoring of counselors-like parochial school teachers;risk of diversion(3) \_\_\_\_\_  
Religious compulsion-no choice-govt assigns-per se violation-endorsement-symb union-(5) \_\_\_\_\_  
Miscellaneous \_\_\_\_\_ (3)