You have recently been hired as an Assistant Attorney General in the state of Minnesota for Attorney General Lori Swanson. Her office is charged with defending laws passed by the State Legislature, counties, cities, and school boards. The office must also defend actions taken by those officials. However, if she reasonably believes that a law is unconstitutional, she has the option of not defending it. A large part of your job is to research laws that have been challenged in court to provide her guidance on whether the law is able to be defended. On your first day, she places several files on your desk asking for your analysis in the form of a memorandum.

The first case you notice comes from the Minneapolis suburb of Eden Prairie and its high school. Several students at that school have been very critical of President Donald J. Trump and many of his policies, especially on immigration. A small student group was started to oppose him doing things such as letter writing, voter registration, and phone banking. Activity period is every other Wednesday in the half hour before lunch. The students went to a local t-shirt shop and with their own funds bought shirts that in large letters stating “FUCK DONALD TRUMP”. School officials were upset because the students in this group wore these shirts on days with activity period. They ordered that the students had to place a shirt on top of this shirt, wear it inside out, or go home and change shirts. The students declined on First Amendment grounds to comply. The next activity period, the students were sent to the office and given a suspension of three days from school. Further, since the group refused to comply, their group was ordered to be disbanded and was no longer eligible to participate during activity period, nor could it use school facilities or be eligible for school funds. These students were able to retain the services of the ACLU and have challenged in federal court both the suspensions and the disbanding on their group on First Amendment grounds. (Two issues here, not one!). The school district believes they are right and have asked the Attorney General’s Office to defend their actions here and Attorney General Swanson has asked you to evaluate these claims in terms of their constitutionality.

Another case comes from St. Cloud, a community about an hour north of Minneapolis known for its conservative views, but where around 10% of the population is of Somali descent. Another anti-Trump group, (this time not in a school) became very active in the area. Responding to his proposed travel ban, this group felt he was destroying the U.S. Constitution. During weekly protests to illustrate their point, they began to burn copies of the U.S. Constitution as a way to protest. In response to this, the City Council passes an ordinance that states that any person that knowingly or intentionally burns a copy of the U.S. Constitution commits a Class B infraction, subject to a fine of up to $100.00. One of the protestors also contacts the ACLU and files a lawsuit in federal court to block implementation of the law stating that it is facially invalid under the First Amendment. The City of St. Cloud believes that their law and has asked the Attorney General’s Office to defend the law. Attorney General Swanson has asked you to evaluate the constitutionality of this law.

A final issue also comes from St. Cloud in regard to the issue of gay rights. The St. Cloud area had voted very strongly in favor of Amendment 1 in 2012, which would have banned gay marriage through a constitutional amendment, and its legislators voted against legalizing gay marriage in 2013. A state law in Minnesota was more favorable to the issue that St. Cloud was. It prohibited any group or organization that excluded anyone on the basis of sexual orientation from using any public facility in the state, including county courthouses and city halls, nor could they be issued any permits to hold parades nor be a part of them in a fashion that identifies them as a member of a discriminating group. Any local municipality that did so would risk losing state funds for local projects. While the Boy Scouts of America has reversed some of its policies against LGBT scouts and leaders at the national level, many conservatives rejected those changes. One group was founded to be a conservative alternative to the Boy Scouts, known as Trail Life, USA (<https://en.wikipedia.org/wiki/Trail_Life_USA>), who prohibit LGBT youth and leaders. A local Trail Life troop that meets at a local Lutheran church applied to participate in the local Granite Days Parade (yes it is a real thing!). Their application stated that they would have about 50 scouts, who would march in their uniforms and carry banners with their national and local troops identified, as well as some members that would carry flags. While city leaders wanted to let this troop march in the parade, they feared loss of state funds so they rejected their application based on this fact alone. The local Trail Life group contacted a conservative group known as the American Center for Law and Justice (ACLJ) to represent them. They feel that this state law is burdening their First Amendment rights to freedom of speech and freedom of association (please do not consider this under the religion clauses!) and have sued both the City of St. Cloud based on their decision to exclude and the State of Minnesota based on the law itself. Both have asked Attorney General Swanson’s office to provide legal guidance on this issue, so she has put this issue on your desk to decide the constitutionality of the issue here.

In order to determine this, Swanson has asked you to prepare a legal memorandum analyzing the constitutionality of each of these issues. She would remind you that you are only to consider cases mentioned so far in the textbook or in online lectures. She would also state that all cases should be cited in proper Bluebook form and any quotations to a case from the book should use the book number after the comma, so you are not required to find it within the case. Swanson also wants to remind all of his attorneys that plagiarism is unacceptable, so if you take quotes from some legal website to help describe a case, please cite them.

Swanson suggests that this legal memorandum start with a very brief description of the facts before us (summarize them, don’t copy and paste from this assignment!), and then move on to the legal analysis of each issue, using the IRAC (Introduction, Rule, Application, and Conclusion) method discussed before and to be sure to consider all relevant legal tests for each issue. She also wants each attorney to take a position in the conclusion as to why each provision is constitutional after explaining the application of the law that led you to arrive at that position.

Swanson would also remind you that the longest answers are not necessarily the best ones, but those that best analyze the issue as succinctly as possible. Swanson thinks that it will probably take a person 8-12 double spaced pages to correctly analyze these issues, but that is not a hard and fast page limit. Some students may need more pages, while some may need less.