

Constitutional Law

I. Standing (July 2022, July 2016, July 2013, Feb 2007, Feb 2004)

- 1) **Bar Exam Tip: Many Constitutional Law essays begin with at least a brief discussion of standing. If standing is an issue, always start by stating the three general requirements of standing (injury, causation, redressability) before discussing any specialized problems of standing.**
- 2) In order for a court to hear a case, the plaintiff needs to have “standing.” That is, the plaintiff needs to show an injury, causation, and redressability. If the plaintiff cannot show this, the court will not hear the case.
- Injury in fact:** it needs to be an actual or imminent personal injury—it cannot be hypothetical.
 - Causation:** the harm must be fairly traceable to the defendant’s actions.
 - Redressability:** the plaintiff needs to show that a favorable decision would eliminate the harm or remedy the injury.

Green dates reveal when a topic was tested on the CA essay portion.

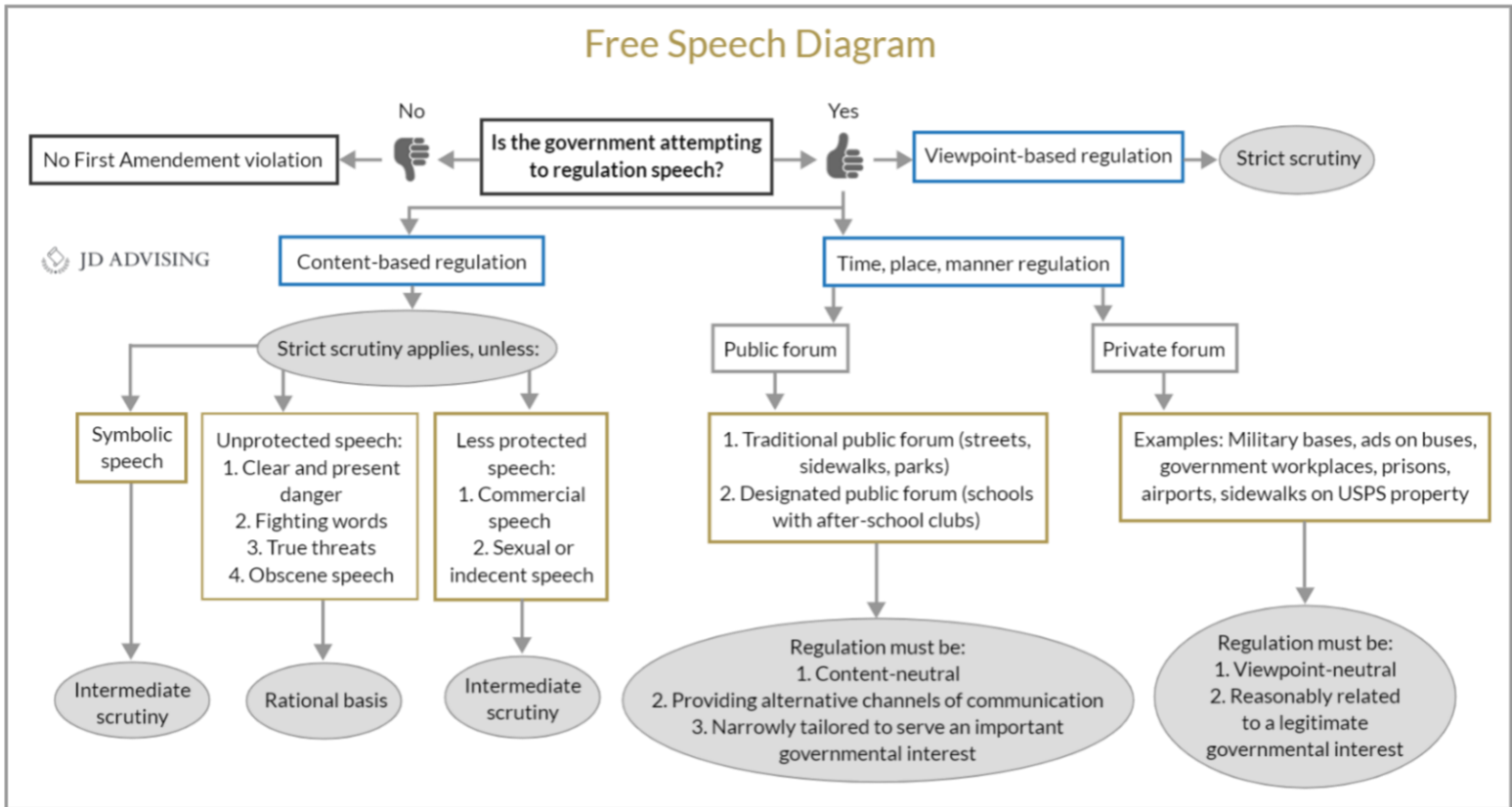
Images throughout better explain concepts.



- 3) Standing of organizations or associations (July 2019, Feb 2007, Feb 2004)
- An organization can sue for an injury to itself and can also sue for injuries to its members if a **member or members have standing**, the member’s injury is **related to the purpose** of the association, and **individual members are not required** to participate in the lawsuit.
 - Ex.: The American Car Association is comprised of automobile motorists residing throughout the United States. One of its purposes is to promote free and unimpeded automobile travel. The organization has received numerous complaints about a new state law that prohibits its members from using radar detectors. The organization may bring a lawsuit on behalf of its members. There is a specific injury (impedes travel, makes radar detectors valueless), it is related to the organization’s purpose to promote free and unimpeded auto travel, and individual participation is not required in the lawsuit. (Feb 2004)*

Green examples throughout are from past CA essays!

BAR EXAM TIP
Bar exam tips throughout help guide you on how to write your CA essay



We give you helpful charts to make highly tested areas of law more memorable.

Ways this has been tested:

- A public bulletin board in a bus station is a designated public forum. (Feb 2012)
- A city may not require that any sexually graphic material be approved by a review panel prior to being sold. (July 2006)
- Prohibiting the burning of the United States Constitution constitutes viewpoint-based discrimination. (July 2007)
- A city ordinance banning religious displays is content-based and not sufficiently narrowly tailored to meet strict scrutiny. (Feb 2014)

V. Freedom of religion

1) Establishment Clause (July 2019, Feb 2018, Feb 2014, Feb 2011)

- a) Any law that favors one religion over another (or favors religion over non-religion) will be struck down under strict scrutiny.
- i) Neutral laws: Where the government legislation or program is neutral on its face, the Establishment Clause must be interpreted by **“reference to historical practices and understandings.”** “The line that courts and governments must draw between the permissible and the impermissible has to accord with history and faithfully reflect the understanding of the Founding Fathers.”