

# Multistate Bar Exam Outlines

## CONSTITUTIONAL LAW

### 1. Requirement for Cases & Controversies

- a. **STANDING** – (Proper Party?) – Plaintiff has suffered a (1) **concrete injury in fact**, (2) **caused by the defendant** that is (3) **redressible** by the court.

- i. **Concrete Injury** – P must allege and prove that he has **personally been injured** or **imminently will be injured**.

1. P may only assert injuries that they personally have suffered
2. Need NOT be an economic injury
3. P seeking injunctive or declaratory relief must show a likelihood of future harm
4. MBE Tip: If asked to determine the best standing identify personal injury. If more than one, identify personal injury with economic loss (\$)

- ii. **Causation** – Must be a causal connection between the injury and the conduct.

1. P must allege and prove that the D caused the injury.

- iii. **Redressibility** – P must allege and prove that a favorable court ruling is likely to **remedy the harm suffered**. **NO ADVISORY OPINIONS!**

1. Note – Often the flip side of causation
2. Courts will NOT determine the constitutionality of a statute if it has never been enforced and there is no real threat that it ever will be.

- iv. **Third Party Standing** – P can only sue to protect his own rights, NOT those of 3<sup>rd</sup> parties.

1. Exceptions – Must meet the 3 above elements AND:

- a. **Special Relationship** between P and injured party (Dr. – Patient)

- b. **Injured party is unlikely to be able to assert his own rights**

1. Ex. law criminalizing distribution of contraceptives to unmarried persons. Doctor allowed to raise rights of unmarried persons.

- c. An **Organization** may sue for its members, if: (aka association standing)

1. Members would have **standing to sue in their own right**

2. Interests are **related** to the organization's purpose

1. i.e. Sierra Club can bring an environmental claim.

3. **Individual member participation is NOT required** (i.e. no individual damages requested - injunction)

- v. No generalized grievances – P must NOT be suing solely as a **citizen** or **taxpayer** interested in having the **government follow the law**.

1. Exception: taxpayers have standing to **challenge government expenditures** as pursuant to federal statutes as violating the **Establishment Clause** (i.e. Federal aid to religious schools)

- a. NOTE – For a taxpayer to have standing under this exception, **Congress's spending power** must be involved.

2. Exception: P has standing to **enforce a federal statute** if she is within the "zone of interests" congress meant to protect.

- b. **RIPENESS** – (Avoiding Pre-mature litigation) – May the court grant pre-enforcement review of a statute or regulation; (2 part test)

1. Hardship that will be suffered without pre-enforcement review

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**Clifford Lane**



## **Evidence Cheats On The Multistate Bar Exam:**

**Handbook of Test Security** James A. Wollack, John J. Fremer, 2013-09-02 High stakes tests are the gatekeepers to many educational and professional goals. As such, the incentive to cheat is high. This Handbook is the first to offer insights from experts within the testing community: psychometricians and policymakers to identify and develop best practice guidelines for the design of test security systems for a variety of testing genres. Until now, this information was scattered and often resided inside testing companies. As a result, rather than being able to learn from each other's experiences, each testing entity was left to re-create their own test security wheel. As a whole, the book provides invaluable insight into the prevalence of cheating and best practices for designing security plans, training personnel, and detecting and investigating misconduct to help develop more secure testing systems and reduce the likelihood of future security breaches. Actual case studies from a variety of settings bring to life how security systems really work. Examples from both domestic and international programs are provided. Highlights of coverage include: Best practices for designing secure tests; Analysis of security vulnerabilities for all genres of testing; Practical cheating prevention and detection strategies; Lessons learned in actual security violations in high profile testing programs. Part I focuses on how tests are delivered for paper and pencil technology based and classroom testing and writing assessment. Each chapter addresses the prevalence of the problem and threats to security prevention and detection. Part II addresses issues essential to maintaining a secure testing program such as planning and monitoring physical security, the detection of group based cheating, investigating misconduct, and communicating about security related issues. Part III examines actual examples of cheating: how the cheating was done, how it was detected, and the lessons learned. Part III provides insight into security issues within each of the Association of Test Publishers' four divisions: certification, licensure, clinical, educational, and industrial/organizational testing. Part III's conclusion revisits the issues addressed in the case studies and identifies common themes. Intended for organizations, professionals, educators, policy makers, researchers, and advanced students that design, develop, or use high stakes tests, this book is also ideal for graduate level courses on test development, educational measurement, or educational policy. The Bar Examiner, 2003 *Multistate BAR/BRI Bar Review*, 2000

**Assessing Performance** Robert L. Johnson, James A. Penny, Belita Gordon, 2008-10-10 A comprehensive resource for assessment practitioners, this book provides step by step guidance for developing, administering, scoring, and validating a range of performance tasks, including literacy and other types of proficiency assessments. The authors explore how to establish the purpose of the assessment and how to develop scoring tools, train raters, reduce rater bias, review scores, and report results, and use item level and test level analyses to optimize reliability and validity. Clearly written and well organized, the book includes many practical examples and accessible explanations of concepts and statistical procedures. It encompasses the breadth of applications of performance assessment today, from educational testing and the credentialing of professionals to research and program evaluation. User friendly features include Checklists of activities to complete at each stage of a

performance assessment End of chapter questions to facilitate self study Annotated suggestions for further reading A quick reference glossary of terms Examples drawn from multiple educational and professional licensure contexts      **The**

**American Legal Profession** Christopher P. Banks, 2017-06-21 While emphasizing that lawyers fulfill a vital but often misunderstood public function in society *The American Legal Profession The Myths and Realities of Practicing Law* by Christopher P Banks dispels some of the common misconceptions about the legal profession to show that the reality of being a lawyer is much different from what many students believe it to be Many students know little about what law school is like or how it differs from undergraduate study and this book corrects common myths about graduating law school and life after passing the bar This brief primer is a nuts and bolts analysis of what it is really like to go into the legal profession from start to finish giving students considering a career in law a realistic overview of their potential legal careers      **North Eastern**

**Reporter**, 1990      **Evidence** David A. Sklansky, 2008 *Evidence Cases Commentary and Problems Second Edition* offers a dynamic blend of pedagogy but tips the scales in favor of using carefully chosen and edited cases to present central concepts and issues of contemporary debate in evidence law With a structure that reflects the utility of the Federal Rules of Evidence as a teaching tool *Evidence Cases Commentary and Problems Second Edition* provides succinct yet complete coverage cases that illustrate central concepts and controversies of evidence law excerpts from congressional reports and floor debates selected materials from treatises and law review articles relevant portions of the legislative history of the Rules particularly from the Advisory Committee Notes a mix of hypotheticals and problems based on real cases full coverage of traditional evidence topics plus cutting edge issues of emerging debate an overview In Chapter One Of the role of judicial opinions The Federal Rules of Evidence And The Legislative History of the Rules a complete teaching package that includes an available annual statutory supplement an extensive Teacher's Manual that includes discussion of both federal and California law PowerPoint slides an author website [www.law.berkeley.edu/faculty/sklansky/evidence](http://www.law.berkeley.edu/faculty/sklansky/evidence) a new DVD available to professors only featuring movie and television clips that illustrate key concepts and issues at debate in evidence law New To The Second Edition a revised and reorganized Hearsay chapter that reflects the Supreme Court's new understanding of the Confrontation Clause updated coverage of expert testimony and scientific evidence new problems cases and editorial material throughout *Evidence Cases Commentary and Problems Second Edition* Is part of a complete teaching package that includes an annual statutory supplement detailed Teacher's Manual PowerPoint author website and now an exciting new teaching tool a DVD of illustrative movie and TV clips that will energize and fuel class discussion DVD Clips Include Adam's Rib Anatomy of a Murder I Love Lucy in the Name of the Father Intolerable Cruelty Jagged Edge Judge Dredd Knock on Any Door Kramer vs Kramer Miracle on 34th Street Mr Deeds Goes to Town Mutiny on the Bounty My Cousin Vinny Peyton Place Presumed Innocent the Rockford Files Roxie Hart Star Trek VI The Undiscovered Country to Kill a Mockingbird the Verdict Young Mr Lincoln      **Sample MBE** National Conference of Bar Examiners, 1995      **Outline of Ohio Bar Examination Subjects**

Ohio. Board of Bar Examiners,1984      Teaching the Law School Curriculum Steven I. Friedland,Gerald F. Hess,2004 This new book on teaching law draws upon the wisdom of hundreds of legal educators to provide ideas materials and alternatives for teaching a variety of law school courses The book offers guidance for new and experienced law teachers to plan and deliver effective courses From Business Associations to Family Law Federal Income Taxation to Torts each chapter addresses one of the fifteen courses most students take during their legal education Each chapter has five sections 1 Approach encompassing global issues about a course such as goals organizational scheme general philosophy syllabi and coverage 2 Materials evaluating what kinds of materials enhance a course 3 Class Exercises evaluating what teaching and learning activities work well in a course and suggesting in and out of class projects that promote learning 4 Brief Gems in which teachers share devices and ideas that have proven effective in their classes and 5 Evaluation of Students assessing when and how students should be evaluated and discussing teachers thoughts on feedback and assessment both during and at the end of the course      **Bar Review** ,2002      *Journal of Legal Education* ,1991      *BAR/BRI Digest* ,1981      **American Law Reports** ,2003      **National Bar Examination Digest** ,1976      The Accounting Educators' Journal ,1989      **Current Law Index** ,1999      **News of the Weird** Chuck Shepherd,John J. Kohut,Roland Sweet,1989 For news junkies and fans of the bizarre but true here is an outrageous collection of all real all weird news stories culled from the nation s mainstream newspapers Line art throughout      The New York Times Book Review ,1973      *New York Jurisprudence 2d* ,1979

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