



CALIFORNIA BAR EXAM
MULTIPLE-CHOICE QUESTION EXAM CONTENT MAP
CONSTITUTIONAL LAW

The topics listed below are illustrative of those covered in Constitutional Law, but are not exhaustive. Applicants should assume that all references to the Constitution, including the term “constitutional,” are to the federal Constitution unless otherwise specified. The percentages listed next to each section represent the approximate percentage of questions on the exam that will be drawn from this subject.

I. Separation of Powers – 17%

- A. Legislative Branch
 - 1. Taxing and spending power
 - 2. War power
 - 3. Commerce power
 - 4. “Necessary and Proper” Clause power
 - 5. Investigatory power
 - 6. Property power
 - 7. Thirteenth, Fourteenth, and Fifteenth Amendments
 - 8. Delegation Clause
- B. Executive Branch
 - 1. Commander-in-chief
 - 2. Chief executive
 - 3. Treaties and foreign affairs
 - 4. Appointment and removal
 - 5. Veto
 - 6. Pardon
 - 7. Executive privilege
 - 8. Executive immunity
- C. Interbranch Checks and Balances
 - 1. Impeachment and other Congressional limits on executive
 - 2. Veto and similar powers
 - 3. Executive, congressional, and judicial privileges and immunities
 - a. Speech and Debate Clause

II. Judicial Review – 17%

- A. Organization of Courts
 - 1. Constitutional basis
 - 2. Organization
- B. Jurisdiction of Courts
 - 1. Constitutional limitations and justiciability
 - a. Standing
 - b. Ripeness
 - c. Mootness
 - d. Adequate and independent state grounds
 - e. Abstention
 - f. Political questions
 - g. Advisory opinions

2. Congressional limitations
 - a. Eleventh Amendment

III. The Federal-State Relationship – 16%

- A. Preemption and Consent
- B. Intergovernmental Immunities
- C. Supremacy Clause
- D. Tenth Amendment and the Scope of State Authority
 1. Tenth Amendment
 2. Dormant Commerce Clause
 3. State taxation

IV. Individual Rights – 50%

- A. State Action Requirement
- B. Due Process Clause
 1. Incorporation of Bill of Rights through the Fourteenth Amendment
 2. Substantive due process
 - a. Fundamental rights
 3. Procedural due process
- C. Equal Protection Clause
 1. Fundamental rights
 2. Establishing discrimination
 3. Strict scrutiny (suspect) classifications
 4. Intermediate scrutiny (*quasi*-suspect) classifications
 5. Rational basis review classifications
- D. Privileges and Immunities of Citizens
 1. Privileges or Immunities Clause of the Fourteenth Amendment
 2. Privileges and Immunities Clause of Article IV, Section 2
- E. First Amendment Protections
 1. Freedom of religion
 - a. Prohibition against the establishment of religion
 - b. Free exercise of religion
 2. Freedom of speech and expression
 - a. Content-based / content-neutral
 - b. Public forum / non-public forum
 - c. Time, place, and manner regulation
 - d. Vagueness / overbreadth
 - e. Prior restraint
 - f. Symbolic expression
 - g. Political speech
 - h. Compelled / coerced speech
 - i. Regulation of commercial speech
 - j. Regulation of unprotected speech
 - (1) Obscenity
 - (2) Incitement to illegal activity
 - (3) Fighting words
 - (4) Defamation
 - (5) Fraud and perjury
 - (6) Speech integral to criminal conduct (“true threats”)
 - k. Regulation of speech by public employees
 - l. Regulation of sexual speech
 - m. Regulation of public schools and student speech
 3. Freedom of the press
 4. Freedom of association
 - a. Public employment
- F. Other Protections
 1. Bills of attainder
 2. *Ex post facto* laws
 3. Contracts Clause
 4. Eminent domain—Takings Clause