

A federal statute provides funds to private organizations that develop online learning materials for schools. A provision of the statute requires organizations that receive such funds to provide their educational materials to private, religious schools for use in their curriculum on the same terms that the organizations provide to public schools.

A taxpayer brought a suit in federal court to challenge the federal statutory provision as violating the establishment clause of the First Amendment. The taxpayer does not work in the education industry, nor does he have any children.

Does the taxpayer have standing to challenge the provision?

- A. No, because the private organizations receiving the federal funds are not state actors.
- B. No, because the provision did not cause the taxpayer to suffer a concrete and particularized injury.
- C. Yes, because taxpayers have the right to challenge how Congress spends federal funds.
- D. Yes, because the taxpayer's challenge is based on the establishment clause.

## Explanation:

### Article III standing

(suing on one's own behalf)

<b>General rule</b>	Plaintiff must prove: <ul style="list-style-type: none"><li>• injury-in-fact – concrete &amp; particularized harm (actual or imminent)</li><li>• causation – harm traceable to defendant's conduct AND</li><li>• redressability – favorable judicial decision can remedy harm</li></ul>
<b>Citizen</b>	No standing as mere citizen
<b>Legislator</b>	Must prove personal stake in dispute & concrete injury to challenge constitutionality of government action
<b>Taxpayer</b>	Standing to challenge taxes owed—but not government spending unless: <ul style="list-style-type: none"><li>• challenging legislation enacted under taxing &amp; spending power AND</li><li>• legislation exceeds limits imposed by establishment clause</li></ul>

A federal court will not hear a case unless the plaintiff has **standing**—ie, a personal stake in the outcome of the case. To have standing, the plaintiff must assert an **injury-in-fact** that is **concrete and particularized**—a generalized grievance shared by many or all citizens is insufficient. Therefore, **taxpayers lack standing** to challenge the way the government spends tax dollars **unless** the taxpayer:

- challenges legislation enacted under Congress's **taxing and spending power** *and*
- alleges a violation of a **specific constitutional limitation** on this power—to date, the only limitation that the U.S. Supreme Court has found is the First Amendment **establishment clause**.

Here, the taxpayer is challenging a federal statute that provides funds to private organizations to develop online learning materials for schools (exercise of congressional spending power). He is specifically challenging the statutory provision requiring such organizations to provide materials to private, *religious* schools as a violation of the First Amendment establishment clause (specific constitutional limitation). The taxpayer therefore has standing to challenge this provision.

**(Choice A)** With the exception of the Thirteenth Amendment, the Constitution applies to government (ie, state) action. Private action is considered government action only if the **state-action doctrine** applies. But here, the taxpayer is challenging a federal law, so there is no need to determine whether the private organizations are engaging in state action.

**(Choice B)** The statutory provision did not cause the taxpayer to suffer a concrete and particularized injury since he does not work in the education industry and does not have

children who may be affected by the provision. However, as a taxpayer, he has standing to challenge the provision as violative of the establishment clause.

**(Choice C)** Taxpayers have the right to challenge how Congress spends federal funds only when the challenge alleges a violation of a specific constitutional limitation on Congress's taxing and spending power (as seen here).

**Educational objective:**

A plaintiff-taxpayer has standing when his/her suit (1) challenges legislation enacted under Congress's taxing and spending power and (2) alleges a violation of a specific constitutional limitation on that power (ie, the establishment clause).

**References**

- U.S. Const. art. III, § 2 (defining the case-or-controversy requirement).
- *Flast v. Cohen*, 392 U.S. 83, 102–04 (1968) (establishing the narrow exception to the rule against taxpayer standing).