

FREEDOM WEEK SCHOOL VIDEO LESSON PLAN

I. BACKGROUND INFORMATION

A. The Bill of Rights

The Bill of Rights consists of the first ten amendments to the Constitution of the United States of America. When the Constitution was first presented to the states for ratification it presented an “architectural blueprint” for the United States government. This blueprint described the governmental parts and how those parts were to interact in order to form a government of “We, the people.” However, objections soon arose when it became clear that the rights of the individuals who constituted “We, the people,” were not clearly spelled out. This absence of rights held up the ratification process. James Madison wrote the Bill of Rights in 1789 to deal with the “missing” civilian protections as well as to clarify what happens to rights of individuals not specifically identified and to powers not specifically assigned to the federal government.

Here is a brief presentation of the Bill of Rights:

SUMMARY OF THE BILL OF RIGHTS

- I. Freedom of speech and the press, the right to assemble and to petition are all protected. The government will not establish a state religion or abridge the right to practice (or not practice) a religion. (Most ACLU cases are in response to challenges to these protections).
- II. The need for a militia, being recognized (for society as it was in the late 1700’s), and the right to bear arms shall not be abridged. (This is the most unclear of the amendments since our current society does not maintain militias making the issue of gun ownership one of interpretation of the *intent* of this amendment).
- III. Citizens may not be forced to provide housing for soldiers.
- IV. A warrant or probable cause is necessary to initiate a search. (This is an amendment which sometimes involves students)

- V. In criminal actions, a person must be charged with a specific crime, may not be charged twice for the same crime, cannot be forced to testify against him or herself (this was designed to prevent the use of torture), and is entitled to due process in court matters. The Fifth Amendment also prevents the government from taking property for public use without fair compensation.
- VI. Guarantees a speedy and public trial and mandates legal representation for the defendant at his or her trial.
- VII. Preserves the right to a trial by a jury in civil cases
- VIII. Requires that bail must be reasonable and punishment not cruel or unusual.
- IX. Saves for the people any rights not directly identified or spelled out in the prior amendments.
- X. Saves for the states any powers not specifically assigned in the Constitution to the federal government.

B. The ACLU

The ACLU (American Civil Liberties Union) is a non-profit organization dedicated to the protection of the rights given to all American citizens by the Constitution and the Amendments to the Constitution. Although cases accepted by the ACLU are on behalf of aggrieved individuals or groups it is the Constitutional principle behind the facts of the case which leads to ACLU representation. Essentially, The Constitution is the client of ACLU lawsuits. Sometimes, taking cases involving Constitutional principles cause the ACLU to be in the center of bitter controversy. That happens because the facts in the case often involve unpopular speech or distasteful actions, both of which *may be allowed* by Constitutional principles. It should be remembered that the popularity of an idea is not the test of Constitutional acceptability. It is only whether or not the speech or the action meets Constitutional criteria for protection. The ACLU often does not support or even approve of the individual, group or even the specific content of a given speech or written material or the nature of the action but the ACLU may enter into legal defense of the right, under the United States Constitution, to express those

ideas or take those actions, no matter how unpopular they might be to the general population.

II. ESSENTIAL UNDERSTANDINGS

- A. The Bill of Rights delineates and protects the rights of United States citizens. The Bill of Rights has direct implications to the current status of students as minor-aged citizens.
- B. The Bill of Rights has significant implications to the future role of students, as they become mature citizens.
- C. The rights delineated in the Bill of Rights have limits and those limits often must be clarified in court.
- D. Rights imply responsibilities, which often are invisible to students.

III. MATERIALS

- A. DVD
- B. Study Guide
- C. Internet access for extended assignments

IV. DISCUSSION QUESTIONS

(These questions may be used in addition to those posed in the video itself, if time allows)

- A. The video might give the impression that students can refuse the authority of adults in charge, from teachers to police; refuse under all circumstances to allow searches; say anything they want in a school newspaper; wear tee shirts with any type of message; or be unable to engage in any kind of prayer in the school setting. Obviously, these impressions would be a misunderstanding of the protections offered by the Bill of Rights and the purpose of this video. Worse, these misunderstandings could lead to disruptive testing of the limits society places on its young citizens.

Each expert's discussion in the video includes important caveats, which students might have missed upon one viewing. It is essential to repeat and discuss the following caveats:

SEARCH: The police chief stated, "...if the officer has reasonable cause...he has the right to see what's inside (the glove compartment).

1. Discuss the concept of "reasonable cause" with the students in the case of search.
2. Discuss the written school policy concerning the searching of student lockers.

Legal permission to search is somewhat complicated and that fact should be communicated to the students.

FREEDOM OF SPEECH; SCHOOL NEWSPAPER: The Civil Rights attorney stated, "If the cost of the newspaper comes out of school funds, the school has the final say." In addition, there are the issues of slander, libel, defamation of character, intentional misrepresentations, etc., which are not protected speech. 1. Discuss with students the responsibilities/potential consequences that go with freedom of speech beginning with the famous scenario, screaming, "FIRE!" in a crowded movie theater when there was no fire.

FREEDOM OF SPEECH- TEE SHIRTS: Many schools have banned the wearing of (gang) colors and any clothing with any words at all, and increasingly, globally schools are moving toward adopting a policy that students must wear school uniforms.

1. Have students discuss why schools may be seen by the courts to be special cases in terms of political, religious, racial, etc. speech on clothing.
2. What could be the danger if unfettered proclamations were allowed on clothing worn to school?
3. What is the purpose of schools, in terms of society, and how are they different from a mall in regards to freedom of speech on clothing worn to school rather than to shop?
4. Why might an apparent civil right, let's say the right to display the Confederate or Nazi flag on a tee shirt, be seen a violation of other people's rights?

FREEDOM OF RELIGION; PRAYER IN PUBLIC SCHOOLS:

The issue of prayer in public schools has become a hot-button issue. In the video, the teacher wishes to recite a Christian prayer at a graduation ceremony and the attorney stated, “Federal law is very clear on this issue: school officials may not mandate or organize prayer at graduation ceremonies.”

1. Would this be true of starting football games with prayers over the speaker system; at the start of a school meeting during the school day; at a prayer ceremony around the flagpole before the official start of the school day?
2. Discuss with students the difference between school sponsorship of prayer vs. a student’s right to engage in silent prayer before a test or before having lunch. How are those kinds of prayers different than having a prayer read aloud at graduation?
3. Discuss with students who defends the right for community prayer at a graduation and whether or not they would equally defend a Muslim or Hindu community prayer at their graduation.
4. If the majority of the students are of one religion does the majority rule? If so, must a school poll their students’ religious affiliation to determine the majority’s religion? By what plurality is a majority determined in such matters? For example, if there are three Protestant denominations and two Christian Orthodox groups are they to be counted as all Christian or as separated religious groups? And who determines the rules in establishing a majority?
5. What are the rights of the minority religious groups?

COMMENT ON LIMITS

In all of these cases it should be communicated to students that the freedoms we enjoy as individuals are accompanied by responsibilities we share as members of a community. Students need to see that the existence of institutions like the ACLU and the Supreme Court indicate that civil rights and civil liberties are not absolute but involve all sorts of considerations and nuances. Testing school, police and societal limits is not an activity to be taken lightly nor done without serious cause. Freedom is not the same thing as license!

- B. The First Amendment “guarantees” free speech. A high school student used this principle to challenge a teacher’s right to tell students within the school setting to be quiet. The Supreme Court ruled that the school had that right and it did not violate the First Amendment. What arguments and considerations might have led to that conclusion?
- C. In a school in Florida there was an announcement that a pair of sneakers was missing. The person making the announcement requested that teachers search student backpacks for the sneakers. Which amendment was being violated with this request and what was the reason this request represented a violation?
- D. If the staff of a school newspaper wishes to run a series on religion in the school what guidelines might be necessary to prevent a violation of the First Amendment?
- E. Discuss what life might be like without the protections of the First Amendment.

V. EXTENDED ACTIVITIES

(These activities can be used as projects should time allow)

A. Using the Internet, research one of the cases listed below that involves student rights. Students may prepare written or oral presentations which cover:

1. The incident which led to a court battle
2. The Constitutional principle being tested
3. The possible significance of the outcome to student life
4. The issues pro and con
5. The resolution (how the Supreme Court Ruled)
6. Student comments on this case and its outcome

CASES TO RESEARCH:

Tinker v Des Moines (393 US 503 [1969])

Bethel School v Fraser (478 US 675 [1986])

Hazelwood School v Kuhlmeier (486 US 260 [1988])

New Rider v Board (414 US 1097 [1973])

Morse v Frederick (06 –278 [2007])

New Jersey v TLO (469 US 325 [1985])

Veronia School v Acton (515 US 646 [1995])

B. Assign to students specific amendments or parts of amendments and have them describe scenarios of what life might be like had those amendments not been present. Have them locate examples in the world of countries where those protections are absent and how that absence has led to practices unacceptable in the United States.

C. Have students research the concept of *in loco parentis* and write a paper on what this legal term means and how it explains differences in Constitutional protections in the school settings between students and staff. Have students find why the courts using this legal principle have upheld certain apparent violations of their rights.