



Implementing the Middle School Civics Mandate

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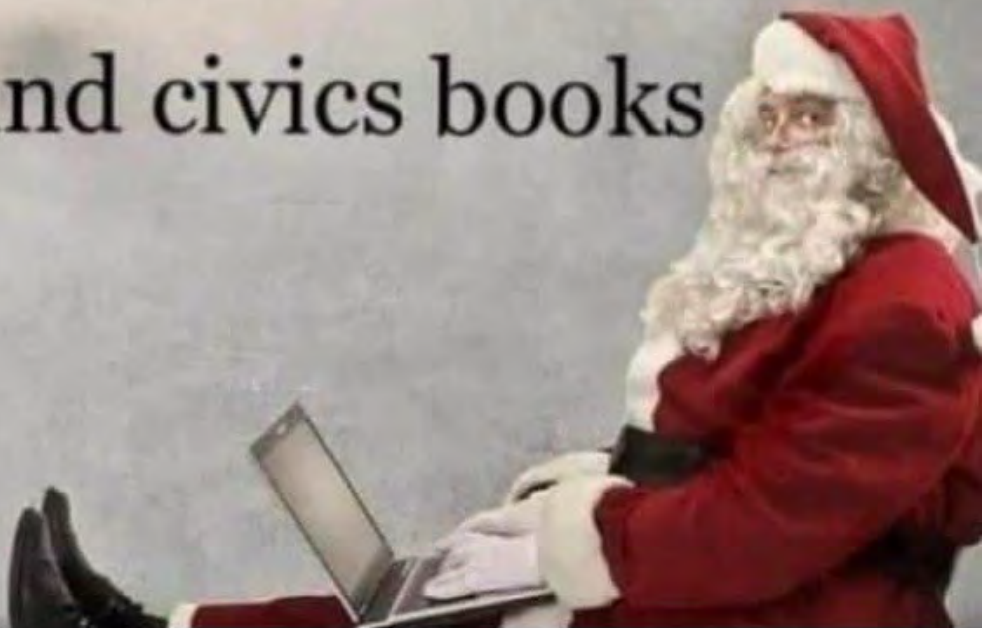
New Jersey Center for Civic Education

Rutgers, The State University

<http://civiced.rutgers.edu>

Santa has been reading
your posts all year.

Most of you are getting
History and civics books





Laura Wooten Law (S-854)

Beginning in the 2022-2023 school year, each board of education shall provide **a course of study in civics**, which shall be taken by all students in an appropriate middle school grade.

The course shall address: the values and principles underlying the American system of constitutional democracy; the function and limitations of government; and the role of a citizen in a democratic society.

The board shall ensure that the course of study includes a **minimum of two quarters of instruction**, or the equivalent.

Directed the New Jersey Center for Civic Education at Rutgers, the State University to provide a clearinghouse of materials, an online resource center, technical assistance, professional development.



What is your school district doing?

- Grade level: 5, 6, 7 or 8
- Length: year, semester, other
- Focus: paired with U.S. history, financial literacy, other



The Crucial Role of Social Studies

- Social studies teachers fill a crucial role in a student's education. Never forget how important you are!
- The goal of social studies education is to ensure the future of our democracy by educating students to be informed citizens
- There are many tools: history, economics, geography, and others, but ultimately it all comes back to the goals of civic education.

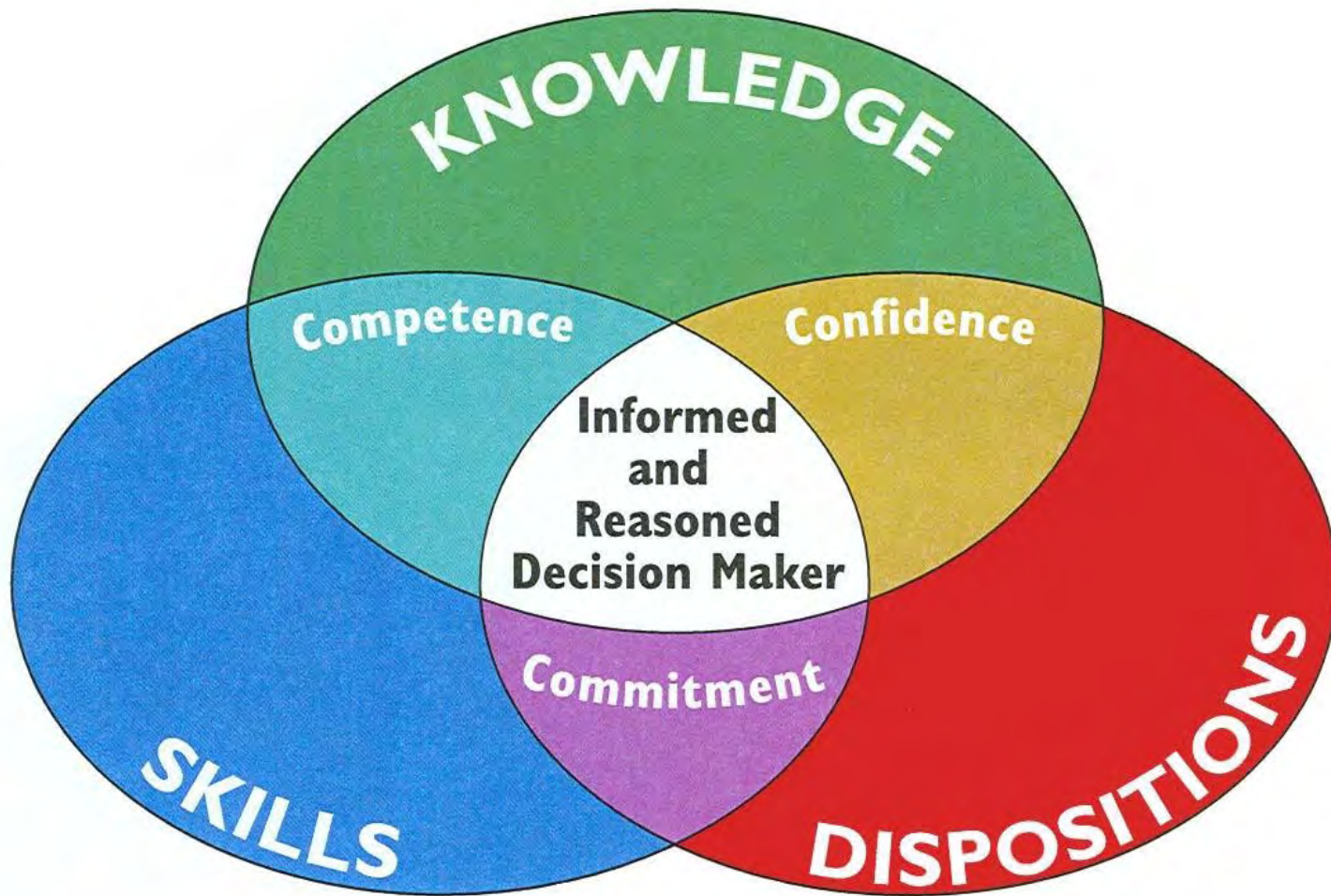


NJ Student Learning Standards for Social Studies

VISION: An education in social studies fosters a population that:

- Is **civic-minded**, globally aware, and **socially responsible**;
- Exemplifies fundamental **values of democracy and human rights** through active participation in local, state, national, and global communities;
- Makes **informed decisions** about local, state, national, and global events based on inquiry and analysis;
- Considers **multiple perspectives**, values diversity, and promotes cultural understanding;
- Recognizes the relationships between people, places, and resources as well as the implications of an interconnected global economy;
- Applies an understanding of **critical media literacy skills** when utilizing technology to learn, communicate, and collaborate with diverse people around the world; and
- Discerns fact from falsehood and **critically analyzes information** for validity and relevance.

Civic Literacy





Teaching Controversial Issues

Discussing current controversial public issues:

- Is authentic and relevant
- Enhances students' sense of political efficacy
- Improves critical thinking skills
- Increases students' comfort with conflict that exists in the world outside of the classroom
- Develops political tolerance
- Motivates students
- Results in students gaining greater content knowledge.



Teaching Controversial Issues: An Ounce of Prevention

- Be prepared for controversy by letting your administrators know what you plan to do
- Reference the state standards and your district course curriculum that supports teaching this topic
- Look at your school policy about teaching controversial issues, which protects teachers unless they are “indoctrinating” students
- Know your community
- Know the goals of your lesson that might be controversial
- Consider carefully whether you should disclose your personal views
- Do not try to indoctrinate your students to your point of view



Resources available at <http://civiced.rutgers.edu>

- [Resources for Teaching Controversial Issues](#): to help you navigate the pitfalls due to our highly polarized society
- [Resources for Teaching Conflict Resolution Skills](#): Practice Active Listening activities with your students:
- [Resources for Teaching Media Literacy](#): help your students develop critical thinking skills so that they can assess the veracity of news and online sites and identify logical fallacies
- The Center offers workshops on these topics: Full-day workshop on Teaching Controversial Issues and Media Literacy will be held on **April 3, 2024**



Inquiry Framework for middle school civics

Key components of a middle school civics course:

- Foundational Concepts and Principles
- Foundational Documents
- The Constitution, American Ideals, and the American Experience
- The Role of the Citizen in a Democratic Society

Civic content, civic skills such as media literacy, civic action and dispositions.

[The Inquiry Framework](#) is online on our website



Middle School Civics Curriculum Guide

Includes:

- Relevant Standards
- Content—including concepts such as consent of the government, the rule of law, civic virtue, liberty, justice, equality, the common good, and diversity
- Suggested Practices--evaluating sources, seeking diverse perspectives, engaging in civil discourse and taking informed action
- Suggested Performance assessments

It is a living document that will be expanded, revised and improved over time



Middle School Civics Curriculum Guide

- Begins with human rights: How do we protect human rights?
- What would a world be like with no rules, laws, or authority?
- Why do we need government?
- Comparing different forms of government
- What makes a government legitimate?
- Consent of the governed
- The Rule of Law
- The Common good and civic virtue



What are human rights? What are the sources? How can they be protected?





What are the sources of human rights?

- Religious and cultural traditions
- All societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members.
- *But this does not guarantee that human rights will be protected for everybody.*

6.3.8.CivicsHR.1: Construct an argument as to the source of human rights and how they are best protected.



How do we protect human rights?

- Norms that aspire to protect all people from threats from each other and their governments become specific rights when they are enacted as part of the country's laws.
- Early example: Cyrus the Great
- Magna Carta, 1215
- English Bill of Rights 1689
- French Declaration of Rights of Man and Citizen, 1789
- The Bill of Rights protected due process and liberty and was expanded to prohibit slavery with the addition of the 13th Am. and to guarantee equal protection of the law by the 14th Am.
- The Universal Declaration of Human Rights adopted by 48 nations after WWII has an extensive list of human rights. The UDHR is aspirational and does not have enforcement powers but has influenced the constitutions of many countries.

What might life be like in a state of nature?





Why do we need authority, rules and government?

- To protect the weak from the strong
- To protect individual rights
- To keep us safe
- To help us keep order
- To peaceably settle arguments
- To ensure the burdens and benefits are fairly shared



Freedomland or Leaderland

In an imaginary time and place, you have the option of living in one of two lands. Would you choose . . .

- **Freedomland** – where everyone experiences absolute liberty. There are no rules, laws, or government. People can do whatever they want whenever they want and are guided by their nature, needs, and desires. There is no agreed upon reward for “good” or “positive” behavior; there is no agreed upon punishment for “bad” or “harmful” behavior.

Or would you choose . . .

- **Leaderland** – where one leader determines what is best for the people. There are many rules and laws enforced by a powerful government. People possess no right to liberty and pursuit of interests and desires are discouraged. Order is prioritized to avoid conflict, minimize violence, and guarantee security.



Freedomland or Leaderland

Inhabiting Your Land

- ✓ If you have chosen Freedomland, move to the left
- ✓ If you have chosen Leaderland, move to the right
- ✓ Share with others about why you chose this land
Listen closely as they share with you
- ✓ Collaborate in forming arguments that may persuade others to come to your land
- ✓ Designate 2-4 students to present those arguments



Freedomland or Leaderland

- First ONE argument from Freedomland
- Then ONE argument from Leaderland
- Continue alternating until all arguments are exhausted
- Anyone who wishes to change lands should do so by physically moving to the other land



Freedomland or Leaderland Debrief

- Were you frustrated by the restricted choice of only Freedomland OR Leaderland?
- Why?

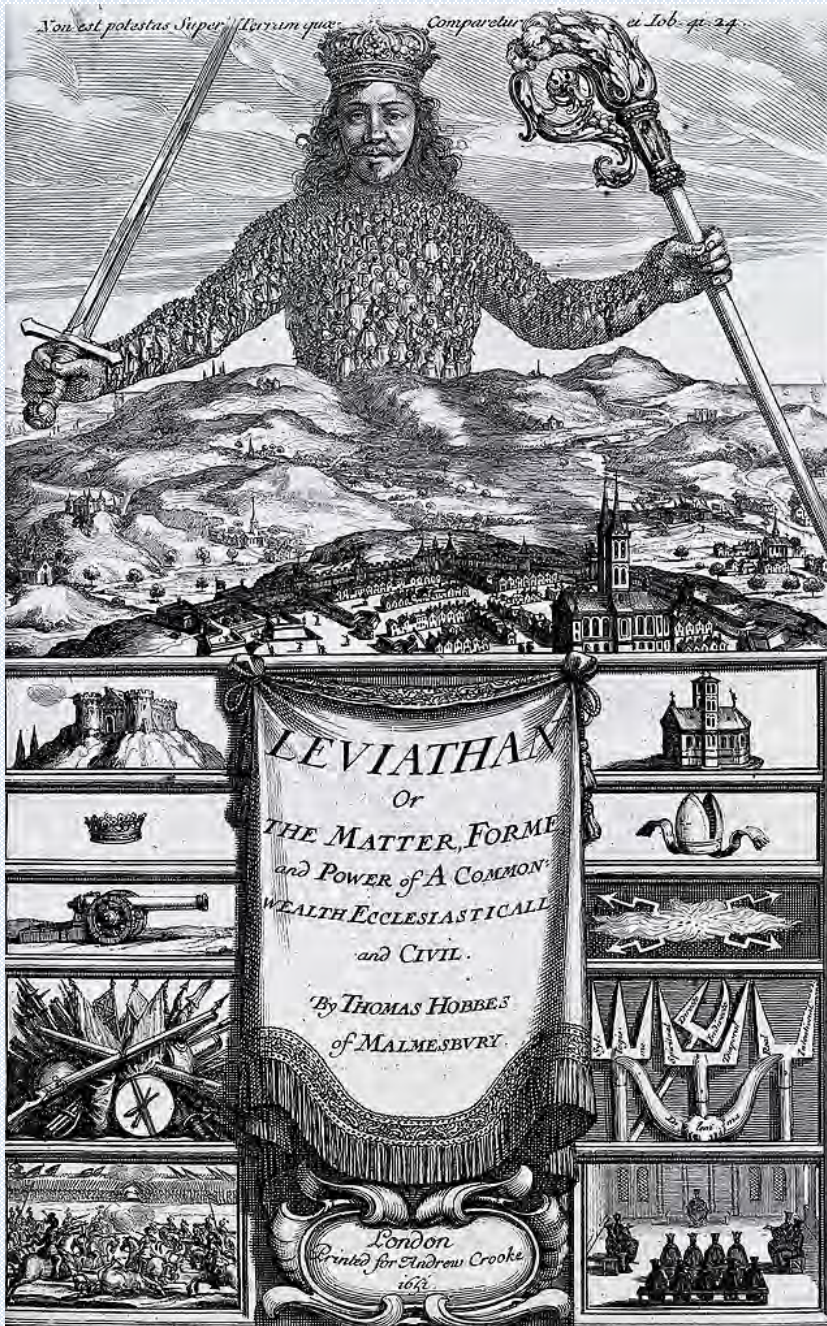


How can we balance the
need for order and the
desire for freedom?

Thomas Hobbes

(1588-1679)

- Published *The Leviathan* in 1651
- Argued that the brute situation of a state of nature (“the war of all against all”) could be avoided only by a strong, undivided government, ruled by an absolute sovereign
- The biblical “Leviathan” is a metaphor for a powerful enemy





Jean-Jacque Rousseau

(1712-1778)

- Swiss-born Rousseau believed in the inherent goodness of each person: "Man is born free but everywhere is in chains."
- In *The Social Contract* (written in 1763), he tried to reconcile the freedom of the individual with the authority of the state
- Rousseau endorsed direct democracy, in which every citizen had an equal responsibility to agree on the laws that governed them.
- He insisted that the state must in all circumstances ensure freedom and liberty of individuals.



John Locke

(1632-1704)

- Wrote *Second Treatise on Government* (1670)
- Argued that under natural law, all people have the right to “life, liberty, and property”
- Believed that the best way for each person’s natural rights to be protected so that everybody could live in peace and enjoy their rights was for each person to agree with others to create and live in a government and give that government the authority to make and enforce laws
- Locke embraced the concept of representative democracy because political leaders should be led only with and by the consent of “the people.”



Social Contract Theory of Government

- ✓ The Founding Fathers believed Locke's Enlightenment argument that every person has natural rights to life, liberty and property
- ✓ They accepted the view that people need government to protect their rights
- ✓ They followed Locke's idea that individuals give up the right to do anything they please in return for security provided by government, including the protection of individual rights—this is called a “*social contract*”
- ✓ Examples of social contracts: The Mayflower Compact, New Jersey and other state constitutions, U.S. Constitution



What makes a government legitimate?

At a minimum:

- Consent of the governed
- The Rule of Law



How Do We Give “Consent”?

- By voting
- By paying taxes
- By obeying the laws
- By meeting our responsibilities (for example, jury duty, military service)
- By choosing to remain in the country upon reaching adulthood (an idea that can be traced back to Plato)
- By participating in our democracy



What does the rule of law mean?

- No one is above the law
- Everyone is treated equally under the law
- Laws are publicly promulgated
- Everyone is held accountable to the same laws, there are clear and fair processes for enforcing laws
- There is an independent judiciary, and
- Human rights are guaranteed for all



What is the difference between power and authority?

- Power is the ability to control or direct someone or something.
- Authority is the power combined with the right to use the power.



Is it power or authority?

1. A jury decided Maggie Smith is guilty of robbery and the judge sentences her to prison.
2. Bob Washington, who is bigger than most of his friends, cuts in front of the line at the movie theatre.
3. While his parents are out and leave him in charge, Chris Matthews tells his younger brother not to touch his computer.
4. The referee ejects two players from the game for fighting.
5. Richard Lee tells his son that he is grounded because he broke his curfew.
6. Johnny, an eighth grade student, tells third grade students Tony and Stan, that they have to clear his lunch tray for his group of friends.

Rules for Civil Discourse in the Classroom

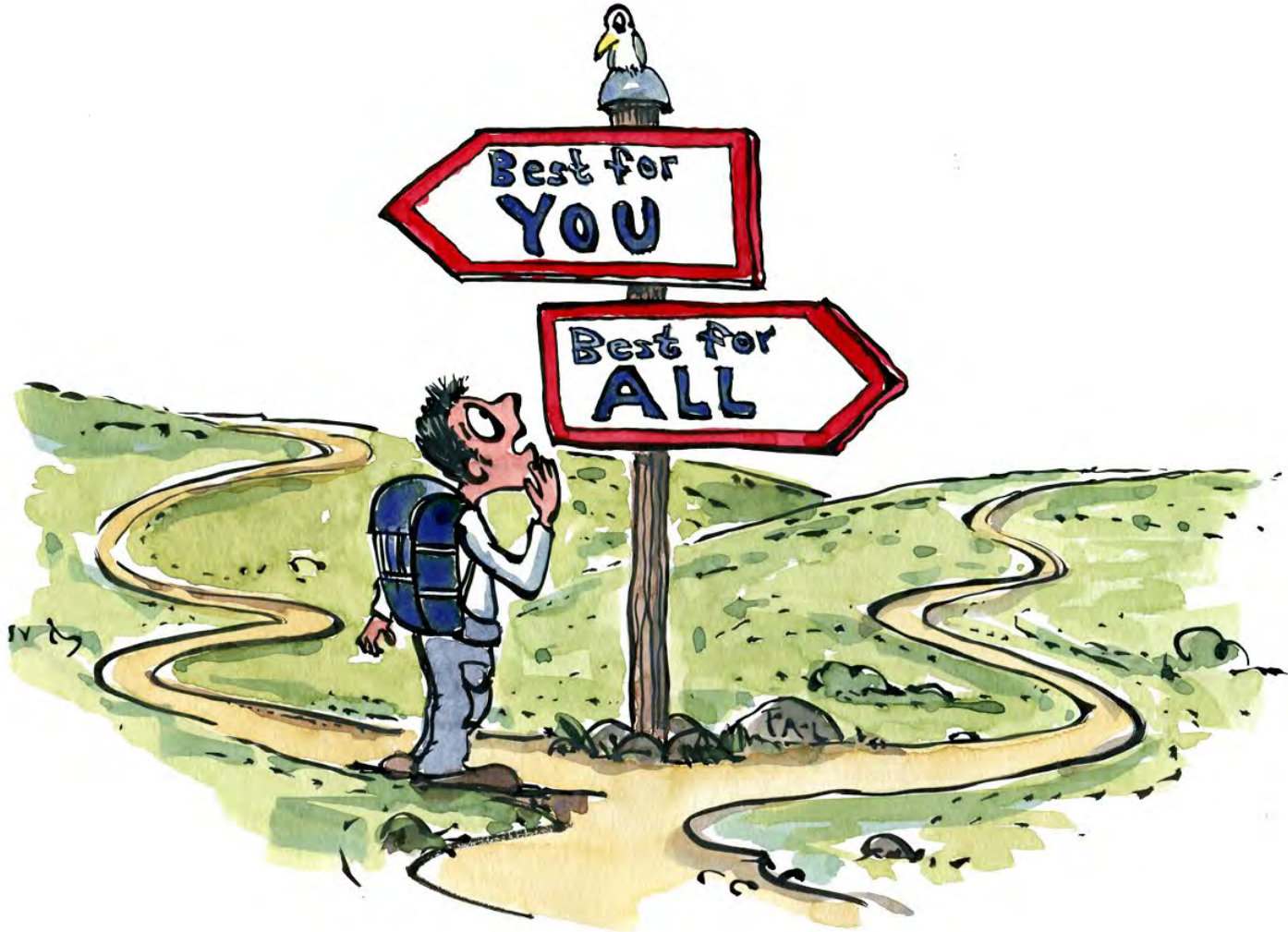




Civil Discourse in the Classroom

- Wait to be recognized by the teacher before speaking.
- Don't interrupt or talk over someone else who is speaking.
- Listen for content in the statements of others, even if you disagree. Don't engage in side conversations that distract from the speaker who has the floor.
- Don't assume that you know what someone else means. Ask questions that help you understand perspectives different from your own.
- Relate your comments to those of previous speakers.
- Don't get personal. No demeaning or inappropriate comments, facial expressions, or gestures.
- Differentiate between facts and opinions. Both are valid when expressed appropriately.
- Listen more than you speak.

What is the common good?

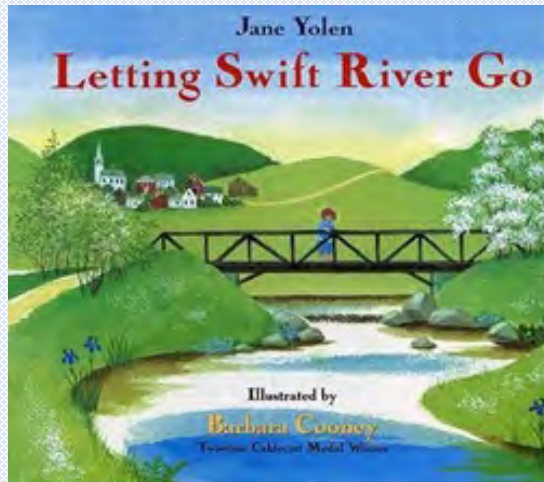




The Common Good

- The purpose of government is to make decisions for the common good—to improve our society--and protect individual rights
- How do we decide what is for the common good? In a democratic society, often we vote
- Our elected representatives are supposed to make and enforce laws for the benefit of all—the common good
- Democracy depends on ALL people—not just elected leaders—recognizing and supporting the common good

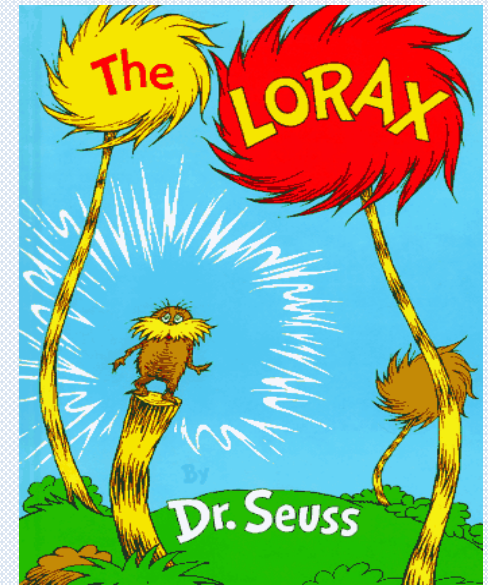
Making Decisions for the Common Good



■ *Letting Swift River Run* (Janet Yolen, 1992)--residents of a town make a decision for the common good to let Swift River be dammed and turned into a reservoir to supply drinking water for the larger community



■ *A River Ran Wild* (Lynne Cherry, 1992)--a true story about the pollution and ultimate cleaning of the Nashua River in MA when citizens took action



■ *The Lorax* (Dr. Seuss, 1971)—we are all responsible for the environment



What is civic virtue?

- The character of a good participant in a system of government--the personal qualities associated with the effective functioning of the civil and political order or the preservation of its values and principles.
- These personal qualities include justice, wisdom, courage, and moderation or self-discipline.
- The Founders designed the American republic with those qualities in mind and believed they were essential to upholding it. These civic virtues undergirded the Founders' conception of the constitutional structure.



Who has demonstrated civic virtue?

- Courage
- Wisdom
- Moderation or self-restraint
- Put country above personal or political interests



Who has demonstrated civic virtue?

- Cincinnatus
- George Washington
- John Adams
- Abraham Lincoln
- Harriet Tubman
- Martin Luther King, Jr.
- Nelson Mandela
- Republicans during Watergate
- Al Gore
- John McCain
- Mike Pence
- Liz Cheney
- Ukrainian Pres. Zelensky



Why is civic virtue important?

- In many countries, leaders have not had the justice, wisdom and temperance to walk away from continuing to serve as leader of their country.
- The Founders recognized the fragility of a system that depended on wisdom, prudence and justice, and the need for all citizens, not just elected representatives to exercise civic virtue.
- Public figures must model the values of civic virtue for the public. Otherwise, the public sees that it is okay for them to let loose bad characteristics, such as greed, fear, indulgence and thoughtlessness or foolishness. Without civic virtue and a concern for the common good, a society cannot function in a fair, prudent and wise manner.



Student Activity: Monarchy/ Dictatorship vs. Democracy

- Divide students into groups of 4-7, give them paper, cardboard, legos (or anything else that you might have available) and ask them to build a house.
- Have some groups work under one individual in charge and able to make all decisions, others cannot make any suggestions
- Have other groups work as a “democracy” with nobody in charge and open to suggestions from all (the group may “select” someone to be in charge if they want to)
- Give the class time to build their house, then discuss the benefits or difficulties of the process they used
- Students should appreciate that when decisions are made by one individual without the input of anybody else (a “monarchy or dictatorship”) things may be built faster but the members of the group may feel frustrated because they had no input
- Students should appreciate that when decisions are made “democratically,” it may take longer because deliberation and consensus take time but everybody had input.



Which form of government is most likely to prevent abuse of authority and protect human rights, and why

- In a democracy, an individual or group is less able to abuse authority because of the rule of law, checks and balances, separation of powers, and the need for continual consent of the governed through elections.
- A representative democracy (democratic republic) is most likely to protect individual rights because of the rule of law and consent of the governed-- representatives are elected by the people and beholden to the people.



Middle School Civics Curriculum Guide

- Unit Two: Focus on our Foundational Documents
- Declaration of Independence
- U.S. Constitution: the structure of our government:
 - Three branches of government
 - Separation of powers
 - Checks and Balances
 - Federalism

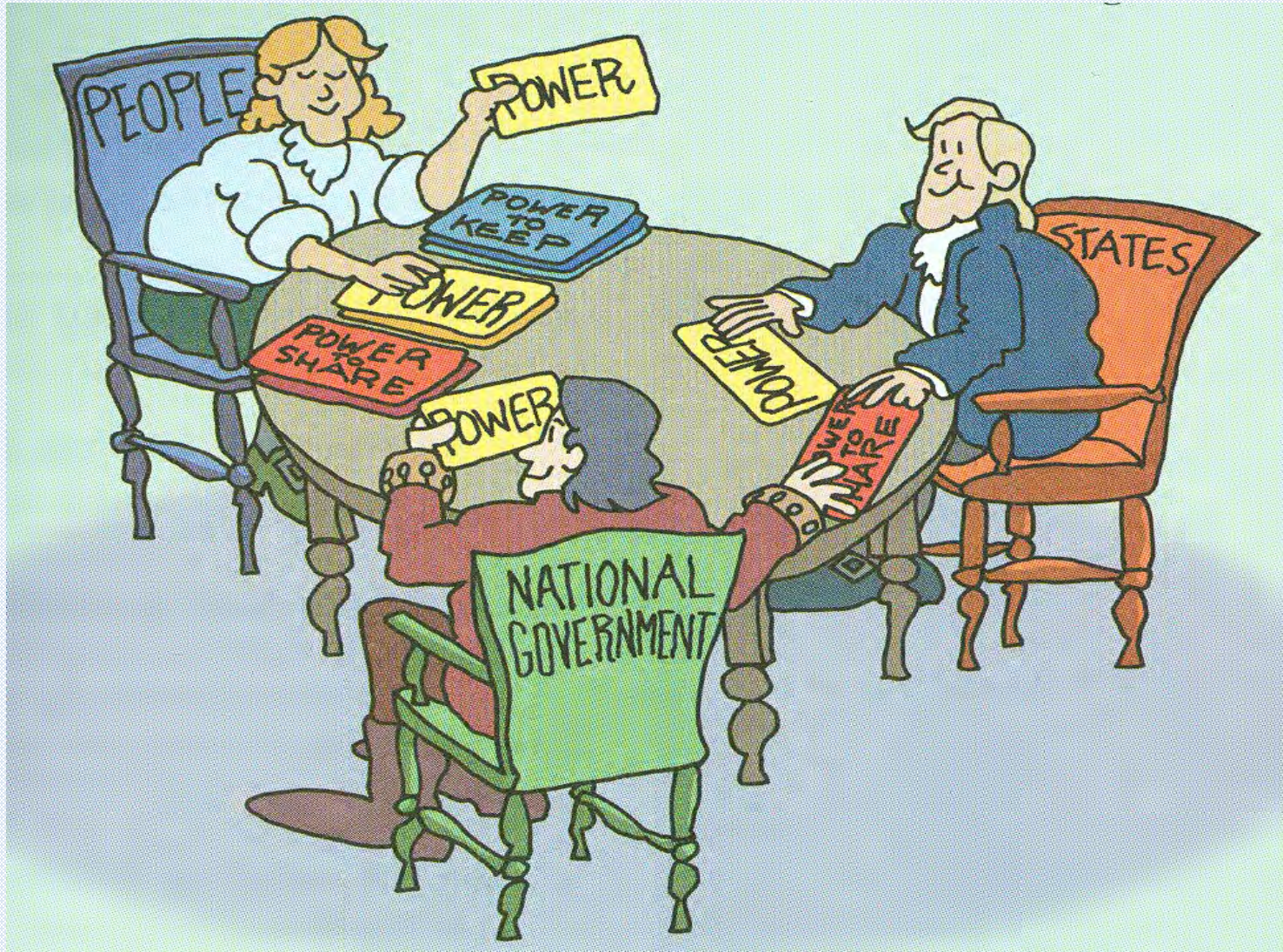
Watch The Constitution Explained: [Foundations of the Constitution – YouTube](#)



Foundational Documents

- Consistent with traditional civics or government textbook
- Many options
- Resources from a variety of sources:
 - National Archives
 - iCivics
 - NEH
 - EDSITEment
 - National Constitution Center
 - Center for Civic Education

What is Federalism?





Federalists

- Would the Constitution maintain republican government?
- Would the national government have too much power?
- Should there be a Bill of Rights?

Antifederalists

- Would the Constitution maintain republican government?
- Would the national government have too much power?
- Should there be a Bill of Rights?



The necessity of compromise

- The “Great Compromise”
- The Addition of a Bill of Rights
- Is compromise a sign of weakness?

6.1.8.CivicsPD.3.a



We listen to respond rather than listening to understand.



Active Listening Activity

- Select a controversial issue
- Place 6-8 chairs in front of the classroom
- Form two teams of three-four people each
- First person states viewpoint and briefly explains why
- No one interrupts
- Opposite side takes turn making argument
- Before person across from him or her can respond, must in some way restate his or her understanding of what has been said.
- Process can be used with any controversial issue.

Federalism: Should the management of elections be left to the states?





It's Been An Issue From the Founding

“Nothing can be more evident, than that an exclusive power of regulating elections for the National Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy.” *

*“Publius: The Federalist 59, New York Packet, 22 February 1788,” Center for the Study of the American Constitution, University of Wisconsin–Madison, <https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/59.pdf>.

The Anti-Federalists were in favor of state control of elections.



The Constitution is clear that voting and elections are primarily a state concern:

Art. I, Sec. 4:

“The Times, Places, and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by Law make or alter such Regulations”.



The Issue: Voting and Elections

- The [Pew Research Center](#) found that Americans remain divided on whether voting is a right or a regulated privilege.
- Since the debunked claims of a “stolen election” in 2020, there has been an upsurge in bills before state legislatures regulating voting and allowing increased partisan control over the tabulation and certification of votes. Some states seek to more tightly regulate voting procedures and voter registration, while others have pending legislation to expand voter registration and access to the ballot.
- For more complete details and statistics, see the Brennan Center for Justice, [Voting Laws Roundup, October 2023](#)



Should the management of elections be left to the states?

- The federal government, in the interest of fairness and equal access to voting rights, has exercised some control over voting through the 14th, 15th, 19th, 24th, and 26th Amendments and the Voting Rights Act of 1965.
- However, recent Supreme Court decisions have effectively gutted the Voting Rights Act in *Shelby County v. Holder* (570 U.S. 529, 2013) by eliminating the need for states that have discriminated in the past to obtain preclearance from the federal government before making changes in their voting procedures, such as places and times of voting, which might adversely affect minority groups.



Research: Does this change your opinion?

CON (No)

- Voting is a right that should not depend on state of residence.
- Some states are engaging in tactics that result in “voter suppression,” such as limiting the places or times for voting, or placing the counting of votes in the hands of partisans, or diluting the impact of certain votes by gerrymandering.
- Our democracy depends on every citizen having the same access to voting and having their vote count equally.

PRO (Yes)

- Voting is a privilege that states have a legitimate interest in regulating.
- States have an interest in regulating their own state elections and adapting to local views and conditions.
- If one party intent on rigging elections gained control of the branches of federal government, it could end our democracy. With state control, some states would likely remain in control of the opposition party and a check on the federal government.



Follow up: Take and defend a position on H.R. 5746

- H.R. 5746, The John R. Lewis Voting Rights Act would set federal standards for voting rights
- Have students read the bill and conduct research
- Take and defend a position on it—write to their member of Congress



The Value of the Active Listening Activity

- This process can be a bit tedious because we do not normally take the time to acknowledge and give feedback for each statement made.
- However, it is serious active listening practice. Students are practicing explaining, listening, reflecting and perhaps changing views—the core of having civil conversations rather than heated debates.
- Invariably, repeating in some format what has been said before, tends to bring views closer and towards more common ground.



Simulations of democratic processes

- Simulated Federal Convention in 1787
 - Congressional Hearings
 - State Legislative Hearings
 - Mock Elections
 - Mock Trials
 - Moot Courts
- Directions in Suggested Practices online



Moot Courts

- A moot court is a mock appellate court hearing
- The court, composed of a panel of judges or justices, is asked to rule on a lower court's decision
- No witnesses are called, nor are the basic facts of the case in dispute
- The focus is on the application, fairness or constitutionality of the law.
- Each side presents arguments for consideration by the judges
- A moot court is an effective strategy for focusing student attention on the underlying principles and concepts of justice



Mini Moot Courts

Ensures that every student is involved in the moot court, by having students work in groups of three.

Set Up:

1. Make sure that everyone understands the factual and legal background
2. Divide your class into triads (groups of three) by counting by 3s or assigning student to roles
3. In each group of three, one person is the judge or justice, one the attorney for the appellant/petitioner (bringing the appeal) and one the attorney for the respondent (responding).



Mini-Moot Court: The Issues

1. Separation of powers: Does the president have the authority to change the immigration requirements by an executive order?
2. DACA: Should immigrants who came here as children be allowed to remain in the United States under DACA?



A Little Background: DACA

- In 2010, the DREAM Act would have given legal status and a chance for citizenship for those who came to the U.S. as minors. It failed to pass (55 to 41 in the Senate) because of the filibuster (It needed 60 votes).
- Following congressional inaction, President Obama created DACA through an executive order in 2012 permitting immigrants younger than 31 in 2012 who had come to the U.S. when they were younger than 16 and lived in the U.S. since 2007 to avoid deportation and obtain work permits for a period of two years—renewable upon good behavior.
- In 2017, President Trump tried to end the program. In June 2020, the U.S. Supreme Court ruled that the Trump administration had not given adequate justification for ending the program, leaving DACA in place.



A Little Background cont.:

- On inauguration day (Jan. 20, 2021), President Biden signed an executive order instructing the Secretary of the Dept. of Homeland Security (DHS) to “preserve and fortify DACA”.
- The Biden administration finalized a rule on Aug. 24, 2022 to make DACA a federal regulation (instead of a policy). The DHS rule is set to take effect on Oct. 31, 2022 and will codify the policy in the federal government’s code of regulations.
- On Oct. 5, 2022 the U.S. Court of Appeals for the Fifth Circuit affirmed a lower court decision that the DACA program was illegal because it was not approved by Congress, but allowed those already enrolled in the program to renew their status.
- The Supreme Court refused to reinstate the Biden Administration’s regulation, sent it back to the district court, which still had problems with the process. The program is now on hold: those enrolled in program could renew their status but no new individuals allowed. What should the court decide?



Separation of powers: Who has authority over Immigration?

- The Constitution delegates to Congress the power “[t]o establish an uniform Rule of Naturalization, ... throughout the United States.”
- The naturalization process is the legal process by which a foreign citizen is granted American citizenship.
- Thus, the Constitution gives Congress the power to determine which foreigners can become citizens, and under what conditions.
- The Constitution, however, is silent on immigration.



Separation of powers: Who has authority over Immigration?

- The Biden Administration argues that the executive has authority over immigration based on national sovereignty and foreign policy and that the executive branch—specifically the Dept. of Homeland Security now—has been implementing and enforcing immigration policies.
- Texas and other states argue that Congress has authority over immigration and that it has not specifically given the executive the authority to implement an immigration program such as DACA.



Should the DACA program be allowed to continue?

- This is not a constitutional issue but rather an issue of fairness and impact
- Is this a good policy?
- Why should the program be continued or discontinued?



Should the DACA program be allowed to continue?

NO: Texas and other states

- DACA encourages unaccompanied minors from Central America to try to come to the US illegally and we should not encourage lawbreakers
- DACA denied jobs to native-born Americans
- DACA recipients did not pay taxes or contribute to the economy and many were criminals

YES: Biden Administration

- GAO: DACA not reason for the surge of unaccompanied minors
- NBER: no higher crime rates, DACA-eligible individuals more likely to complete college and not live in poverty
- DACA-eligibles pay taxes, including SS. Deporting DACA-eligible individuals would reduce federal revenue
- Economists: DACA does not adversely affect labor participation of native-born Americans



Mini moot court

Count by 3s:

- 1s = attorneys arguing for
- 2s = attorneys arguing for
- 3s = judges



The hearing and decision

- Preparation: attorneys prepare their arguments; judges prepare several questions they may want to ask
- Hearing:
 - Attorneys make brief 2 minute arguments (Attorneys for Biden Administration go first because they are the ones appealing the decision from the Fifth Circuit)
 - Judges may interrupt with 1-2 short questions (you might have time for more in your classroom)
- Decision: After the arguments have been made, ask all of the judges to come to the front of the room and have an “open court hearing” where the judges discuss their opinions and reasons. Some judges may decide to change their views after they have heard from their colleagues.



Debriefing: Mini Moot Court

- Debrief the activity by discussing the actual ruling in the case, if a decision has been rendered, or the strongest and weakest arguments if a decision is still pending, or if it is a purely hypothetical case.
- Can a version of this activity be implemented in your curriculum?
- How would you alter or adjust the activity in any way?



Middle School Civics Curriculum Guide

- Unit Three: Examine how well we have met the ideals proclaimed in the Preamble to the U.S. Constitution
- 6.1.8 and 6.3.8 Evaluate effectiveness of fundamental principles of the Constitution
- Very history based—standards 6.1
- Civic concepts can become the basis for inquiry questions meeting many of the history standards in a civics course.



Middle School Civics Curriculum Guide

Unit Three: *“We the People of the United States...”*

- Proclaims who is adopting the Constitution
- Makes a statement of **popular sovereignty**– the authority of government is created and sustained by the **consent** of its people who are the source of all of its power

“...in Order to form a more perfect Union, establish Justice, insure domestic tranquility, promote the general Welfare, and secure the Blessings of Liberty...”

- Reinforces the reasons for adopting a new Constitution
- Explains the **purposes of the government**: to maintain peace, promote the common good

Watch The Constitution Explained: [We the People – YouTube](#)



“...in order to form a more perfect union...”

- Looks at voting
- Sources:
 - CSPAN
 - PBS
 - iCivics
 - Library of Congress
 - LWV



“...establish Justice...”

- What is Fairness of Justice?
- Consider treatment of Native Americans: Cherokee Removal
- Consider treatment of African Americans: Slavery, Jim Crow and segregation
- Due Process
- Equal Protection



“...insure domestic tranquility...”

- What is domestic tranquility? The absence of:
 - Civil Wars
 - Coups
 - Trust in government
 - Crime
 - Violence
 - Poverty
- How can we prevent these conditions and safeguard domestic tranquility?
- CSPAN—privacy, habeas corpus
- Bill of Rights Institute: Fourth Amendment
- iCivics--Peaceful transfer of power



“...promote ...the General Welfare, and secure the Blessings of Liberty”

- What does “promote the general welfare” mean?
- What does liberty mean?
- Freedom of Expression
 - C-Span
 - National Constitution Center
 - Newseum
 - US Courts
 - ABA
- Individual liberty and the common good



First Amendment

“Congress shall make no law
...abridging the freedom of speech, or
of the press, or the right of the
people to peaceably assemble, and to
petition the Government for a
redress of grievances.”



Freedom of Expression

The First Amendment prohibits the Congress (that is, the national government—extended to state and local governments through the 14th Amendment) from interfering with:

- an individual's ability to express views freely
- the ability of the press to write and publish (no censorship)
- individuals' ability to assemble (join with others)
- Individuals' ability to petition the government (send letters, emails, phone calls, meet in person, lobby, protest peacefully)



Why is Freedom of Expression important?

- Allows robust discussions and elections
- Provides a marketplace of ideas
- Advances knowledge and individual development
- Permits peaceful social change



The right to free expression has been limited by the U.S. Supreme Court:

- For national security
- Libel and slander (written or spoken statements intended to damage a person's character or reputation that are presented as facts but are untrue)
- Pornography
- Commercial speech
- Inflammatory speech “directed at inciting or producing imminent lawless action,” and “likely to incite or produce such action”

Watch The Constitution Explained: [Freedom of Expression - YouTube](#)



How well have we met our promise of free speech and press?

The Sedition Act of 1798

- Made it a crime for American citizens to "print, utter, or publish . . . any false, scandalous, and malicious writing," in anticipation of an expected war with France.
- Used against Democratic-Republican newspapers criticizing the actions of the Federalists in power.
- Repealed after the election of 1800 changed parties.
- The U.S. government publicly repented and repaid the fines imposed.



How well have we met our promise of free speech and press?

- Espionage Act of 1917: crime in wartime to make false statements with intent to interfere with the military effort, to cause refusal of duty in the armed forces, or to obstruct military recruitment and enlistment efforts.
- The Sedition Act of 1918: a crime to “incite, provoke or encourage resistance to the United States” or to conspire to urge curtailment of munitions production with intent “to cripple or hinder the U.S. in the prosecution of the war.”
- Antiwar journalists arrested during World War I and during the Red Scare and their convictions upheld (*Schenck v. U.S.*, 1919 and *Abrams v. U.S.*, 1919).
- Congress repealed the Sedition Act of 1918 on December 13, 1920. The Espionage Act of 1917 remains in effect (applicable only during wartime).



How well have we met our promise of free speech and press?

- The U.S. government attempted to cease publication of the Pentagon Papers as the war in Vietnam continued in 1971
- Was rebuffed by the U.S. Supreme Court in *New York Times Co. v. United States*



How well have we met our promise of free speech?

- *Brandenburg v. Ohio* (395 U.S. 444, 1969) government cannot punish speech advocating illegal action (inflammatory speech) unless it is “directed at inciting or producing imminent lawless action,” and is “likely to incite or produce such action.”
- *Virginia v. Black* (538 U.S. 343, 2003) burning a cross in public is a punishable hate crime if intent is to vilify, humiliate, or incite hatred against a group or a class of persons on the basis of race, religion, skin color, sexual identity, gender identity, ethnicity, disability, or national origin.



Free Speech in School: *Tinker*

- Although K-12 schools may impose rules for safety and to ensure that the environment is conducive to learning, the Supreme Court has affirmed that students do not lose their constitutional rights “at the schoolhouse gate.”
- In 1969, Mary Beth Tinker and two other public school pupils in Des Moines, Iowa, were suspended from school for wearing black armbands to protest the government's policy in Vietnam in violation of a school regulation banning the wearing of armbands.
- The students were not disruptive, and did not impinge upon the rights of others.
- The Supreme Court held a prohibition against expression of opinion, without any evidence that the rule is necessary to avoid substantial interference with school discipline or the rights of others, not permissible under the First and Fourteenth Amendments. *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).



Free Press in School: *Hazelwood*

- The Hazelwood School District wanted to restrict the publication of an article about teen pregnancy in the high school newspaper.
- In *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988), the Supreme Court held that school officials can censor school-sponsored publications if their decision is “reasonably related to a legitimate pedagogical purpose.” This means school officials must show that they have a reasonable educational reason for censoring the material.
- New Jersey enacted legislation in 2021 to protect the press freedom of students at public schools and public institutions of higher education, making it the 15th state to adopt legislation prohibiting the censorship of student journalists except in narrow circumstances.



Why is Freedom of Assembly important?

- The right to join with fellow citizens in protest or peaceful assembly is critical to a functioning democracy and at the core of the First Amendment.
- Traditional public forums include public parks, sidewalks and areas that have been traditionally open to political speech and debate.
- The government may, however, subject assembly to reasonable, content-neutral restrictions on its time, place, and manner.
- Freedom of assembly may be limited by ordinances prohibiting blocking of sidewalks or streets or may require a permit. And if the assembly turns violent, law enforcement may step in to help get things back under control.



How well have we met our promise of free assembly?

- Strikes outlawed—injunctions used, e.g. Pullman Strike in 1894
- McCarthy campaign against communism in 1950s was a campaign against free assembly



How well have we met our promise of free assembly and petition?

- *Edwards v. South Carolina* (372 U.S. 229, 1963) students' constitutionally protected rights of free speech, free assembly, and freedom to petition were violated when they peacefully assembled and planned to march to state capital to protest segregation and racial discrimination and refused to obey order to disperse.



What do you think?

Is the United States meeting its promise of free expression?

What challenges do we face today regarding free expression?



Simulated Legislative Hearings

- Legislative hearings provide Congress (and state legislative bodies) the opportunity to gather information that may inform legislation.
- Students can replicate that process in simulated legislative hearings.
- Students “testify” before a panel of judges acting as members of Congress.
- They demonstrate their knowledge and understanding of constitutional principles as they evaluate, take, and defend positions on relevant historical and contemporary issues.
- The panel of judges may further explore student expertise with follow- up questions and discussion.



Simulated Legislative Hearing

Step 1. Delegation of Responsibility: Intra-group discussion determines responsibility for each student/question in the prompt

Step 2. Individual Paragraph: Each student drafts an individual paragraph for their delegated responsibility. Emphasize: clear answer to the question asked, *factual* support, and reasoning.

Step 3. Prepared Statement Development: Students collaborate to finalize a three-paragraph prepared statement.

Step 4. Hearings: Each group orally presents their prepared 3-minute statement. All group members expected to speak. A panel of students listen, then questions the presenting group for a maximum of 4 minutes. After the questioning, the panel offer the presenting group constructive feedback.



Simulated Legislative Hearing

- Each table will constitute a group
- The group will address:
 - *Is the United States meeting its promise of free expression?*
 - *What challenges do we face today regarding free expression?*
- Your Goal - directly answer the question asked; offer factual support for your answer; demonstrate reasonable connections between the answer and the factual support.
- Give each table a number (1 or 2). The number will ultimately determine whether your group presents your statement or acts as a panel.
- Identify a timekeeper for each table.



Simulated Legislative Hearing

- Arrange your seats facing members of your neighboring group
- Group number 1 presents their prepared statement in a maximum of two minutes
- Group number 2 acts as panel - listens to the presentation and offer follow-up with questions
- The Q&A session is a maximum of three minutes
- Timekeeper from group number 1 calls time
- Finally, the panel (group 2) offers the presenting group (group 1) constructive feedback



Debrief – Simulated Legislative Hearing

- Can a version of this activity be implemented in your curriculum?
- How would you alter or adjust the activity in any way?



We the People: The Citizen and the Constitution

- The Center sponsors an annual statewide *We the People: The Citizen and the Constitution* competition
- In the format of a simulated congressional hearings
- Classes of students present and answer questions
- Held the end of January or early February for high school
- Highest scoring school goes to National *We the People* Competition in April
- Hope to bring back middle school competition in March



Social Media

- Facebook, Twitter, TikTok, Snapchat, Reddit, and other online platforms help to spread false claims, some promoting violence, to millions of people.
- Print media is responsible (and liable) for the veracity of what it prints. Online platforms and social media are not.
- Social media sites are free to set their own practices and rules on what can be posted and spread.
- Only through great public pressure by Congress did Twitter temporarily:
 - Suspend former President Trump because he violated the platform's policy against promoting violence
 - Suspend Rep. Marjorie Taylor Greene (R-GA), who promoted viral conspiracy theories like QAnon, for posting misinformation about Covid-19 vaccines.



Take a Stand/Continuum

- Can use with any controversial topic—e.g., immigration, gun control, fracking, the Electoral College, reparations, carbon taxes, statehood for Puerto Rico, expanding the U.S. Supreme Court—almost anything with two sides.
- The issue needs to be phrased as an either/or (yes or no, agree or disagree) question
- Forces students to think about their own views, to express them and, most importantly, to listen to what others are saying and to possibly change their position based on what they learned.



Online Platforms: A Little Background

- The First Amendment protects Americans' rights to freely exchange ideas—even false or controversial ones. If the government passed laws outlawing fake news or false claims, it might have a chilling effect on real news that people disagree with.
- The main legal recourse against fake or false news is a defamation lawsuit. Libel and slander are NOT protected speech. You can sue someone for defamation if they published a false fact about you and you suffered damage as a result—such as a lost job, a decline in revenue, or a tarnished reputation. If you are an ordinary, private person, you must show that the news outlet was negligent (careless).
- Most false news relates to public figures, who can only win a defamation lawsuit by showing that the news outlet acted with “actual malice” (the author knew it was false) or “reckless disregard” for whether it was true or not. E.g., Alex Jones was held liable for the lies he said on his Infowars show and website about the shooting at Sandy Hook E.S. in Newtown, CT. But are threats of defamation suits enough to reduce the spread of falsehoods on social media?



Online Platforms: A Little Background

- Sec. 230 of the Communications Act of 1996 provides immunity to online platforms from civil liability based on third-party content (with exceptions, such as federal crimes): "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider".
- Social media earn large profits from their platforms and websites
- Large internet platforms use sophisticated opaque algorithms to determine the content their users see—to maximize the amount of time spent on platforms
- Should social media platforms be prohibited from spreading false claims that promote violence?





Take a Stand/Continuum

- Stand to the right side if you agree that online platforms should be liable for falsehoods they spread and to the left side if you disagree. Those who are unsure should stand in the middle.
- Teacher turns and faces the line and asks those at either ends of the line to explain WHY they take their position
- There are no rebuttals, students explain their views (why) and listen to others
- If the teachers hears a viewpoint that does not fit with where the student stands, have the student move to an appropriate spot.
- Ask those in the middle who were unsure if what they heard helped them decide and ask them to move to the appropriate spot
- Ask others if they changed their views based on what they heard and ask them to move to the appropriate spot
- The end product is a physical continuum of views on the issue



Follow-up

- Research the many bills in Congress requiring social media transparency and/or liability
- Reconsider the issue in a class discussion after doing research
- Take and defend a position—write to their member of Congress about this issue



Debrief: Take a Stand/Continuum

- Can a version of this activity be implemented in your curriculum?
- How would you alter or adjust the activity in any way?



"Cancel culture"

What is it?

- Actions people take to hold others accountable
- Or silencing someone who has beliefs that are different than yours
- Or a way to call out issues like racism or sexism, or a misrepresentation of people's actions
- Since these are actions by individuals, not government, they do not fall within the First Amendment

PEW Research Center project (Sept. 2020)

- 49%: Actions people take to hold others accountable
- 14%: A form of censorship, such as a restriction on free speech or as history being erased
- 12% characterized cancel culture as mean-spirited attacks used to cause others harm



“If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”

U.S. Supreme Court Justice
Louis D. Brandeis (1856–1941),
Whitney v. California,
274 U. S. 357 (1927)



Middle School Civics Curriculum Guide

- Unit Four: Back to standards 6.3
- What is the role of a citizen—the rights and responsibilities?
- How do local and state government function?
- What public policy is and how can individuals and groups impact it?
- Students identify, research, and develop a solution to a public policy problem and present it to an appropriate governmental agency
- Why should individuals participate in civic life? What are the benefits of civic participation in a democracy?



What is citizenship?

- Citizenship is a relationship between an individual and a country to which the individual owes allegiance and in turn is entitled to its protection.
- People who are born or choose to be citizens of a nation must defend the laws and pledge allegiance to that nation.
- Each nation determines the conditions under which it will recognize persons as its citizens, and the conditions under which that status will be extended or withdrawn.

Who should the U.S. welcome as citizens?





leftycartoons.com

Amperсанд by B. Deutsch



HISTORY MARCHES ON; NATIVISM MARCHES IN PLACE

Amperсанд by B. Deutsch,

<http://www.dollarsandsense.org/archives/2007/1107toon.html>



Current U.S. Immigration Policy

- The Immigration Act of 1965 abolished national origins quotas, gave preference to skilled workers and immigrants with close relatives in the U.S. and set overall limits for immigration
- The last major change in immigration policy was the 1986 Immigration Reform and Control Act under Pres. Reagan:
 - required employers to attest to their employees' immigration status
 - made it illegal to knowingly hire or recruit unauthorized immigrants
 - Granted amnesty--to illegal immigrants who entered the United States before January 1, 1982 and had resided there continuously with the penalty of a fine, back taxes due, and admission of guilt.
 - About 3 million undocumented immigrants were granted legal status.
- The Immigration Act in 1996 doubled the size of the border patrol, authorized the construction of barriers along the US-Mexican border and made illegal immigrants ineligible for most governmental benefits.
- Since the 1990s total immigration has been limited to 675,000 people a year, plus an additional 125,000 refugees a year.



Mike Keefe, *The Denver Post*, April 6, 2006



SEND US YOUR BEST AND BRIGHTEST
POINT-GETTERS, YEARNING TO RAISE
OUR G.D.P. ALL OTHERS PAY A FINE
OF \$5,000 AND MAYBE YOU
CAN STAY.

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Rights and Responsibilities of Citizenship

U.S. citizens (including naturalized citizens) have the RIGHT to:

- Vote
- Serve on juries (Serving on a jury is often seen as an obligation but women and African-Americans fought to have this right.)
- Run for office Register for the Selective Service (if you are male and between age 18 through 25)
- Equal protection and due process

U.S. citizens have a RESPONSIBILITY or OBLIGATION to:

- Follow the laws, including paying taxes
- Register for the Selective Service (if male aged 18-25)
- Be informed about public issues
- Support our democratic form of government and not work against the country's national interests (e.g., for a foreign country).
- This is what "pledging allegiance" means.



The role of a citizen in a democratic society

Beyond voting, paying taxes and supporting the government, we the citizens are responsible for holding our elected representatives accountable and for providing ideas for improving our community.

The first amendment right to petition was not written for lobbyists but rather for us, the people, to use to urge our elected representatives to represent our views.



- One way for your students to learn the skills for influencing public policy is to identify a public issue or problem that they would like to address
- Students then research that issue, develop the best solution and share their solution with the appropriate governing body
- *Project Citizen* is one of several programs that offers ideas for students to “take action” on public issues



- ❑ Has been independently evaluated many times and found to be highly effective
- ❑ For example, a study by the LBJ School of Public Affairs at the University of Texas found that students who participated in *Project Citizen*:
 - ✓ developed a greater understanding of the complexity of public policy
 - ✓ developed a commitment to active citizenship
 - ✓ learned important communication skills



State and Local Government

- Local government
- School Boards
- County Government
- State government
 - Governor
 - Legislature
 - Judiciary
- iCivics: Citizen me
- iCivics: comparing state and federal judiciary
- NJ Center for Civic Education: lessons about New Jersey history and government



Federalism and Separation of Powers

	Executive	Legislative	Judicial
National Government	President	Congress: Senate and House of Representatives	• U.S. Supreme Court • Appellate Courts • Federal District Courts
State Government	Governor	State Legislature: Senate and Assembly	• NJ State Supreme Court • NJ Appellate Courts • NJ Superior Courts (by County)
County Government	County Executive President	County Board of Commissioners	No separate courts (see above)
Municipal Government	Mayor	E.g., Town council	Municipal courts (limited jurisdiction)
School Board	Superintendent	School Board	Administrative Office of the Courts—Commissioner of Education



Process for doing projects:

- ❖ Understand public policy
- ❖ Identify a problem in the community that requires a public policy solution
- ❖ Gather and evaluate information on the problem
- ❖ Examine and evaluate alternative solutions
- ❖ Develop a proposed public policy to address the problem
- ❖ Develop an action plan to get their policy adopted by government
- ❖ Organize the materials into a portfolio to present to the appropriate governmental agency and (if you want) to share at the annual State *Project Citizen* Showcase
- ❖ Reflect on the learning experience individually and as a class



What is Public policy?

- The concept or idea that guides a course of action or procedure in dealing with public issues or problems.
- It includes the decisions, commitments and actions made by those who hold or affect government positions.
- Public policies are often embodied in laws, rules or regulations.



Is it a Public Policy?

The Problem: Poor families in the community need food and adequate clothing.

One solution: City officials fund a program for needy individuals to “buy” food and clothing from participating merchants using vouchers.

This is a public policy.

Another solution: A women’s civic organization conducts a drive to collect food and clothing and then distributes it to needy individuals.

This is NOT a public policy.



Civil Society Initiatives vs. Public Policy

- Have your students identify some local efforts by civil society organizations to improve the community
- Have your students identify some public policies implemented to improve the community



Why learn about public policymaking

- Ignorance about the public policymaking process leaves us without the tools to get things done.
- There is confusion about who does what in the policymaking arena.
- Knowledge, practical experience and citizenship skills empower citizens to influence public policy.



What are the advantages of a public policy solution?

- ✓ Civil society solutions depend on the voluntary efforts of individuals and may end
- ✓ Public policy solutions continue until changed



Identify possible problems to address





Decide on a problem to address: Is it important/feasible?

Consider:

- Scope?
- Intensity?
- Duration?
- Resources at stake?
- Human rights involved?
- Information available?
- Feasibility: Sufficiently narrow?



Gather Information

- ✓ Identify sources of information
- ✓ Public policy makers and interest groups
- ✓ Telephone calls
- ✓ Interviews
- ✓ Letters
- ✓ Libraries, newspapers, websites

Identify, research, and develop possible alternative solutions

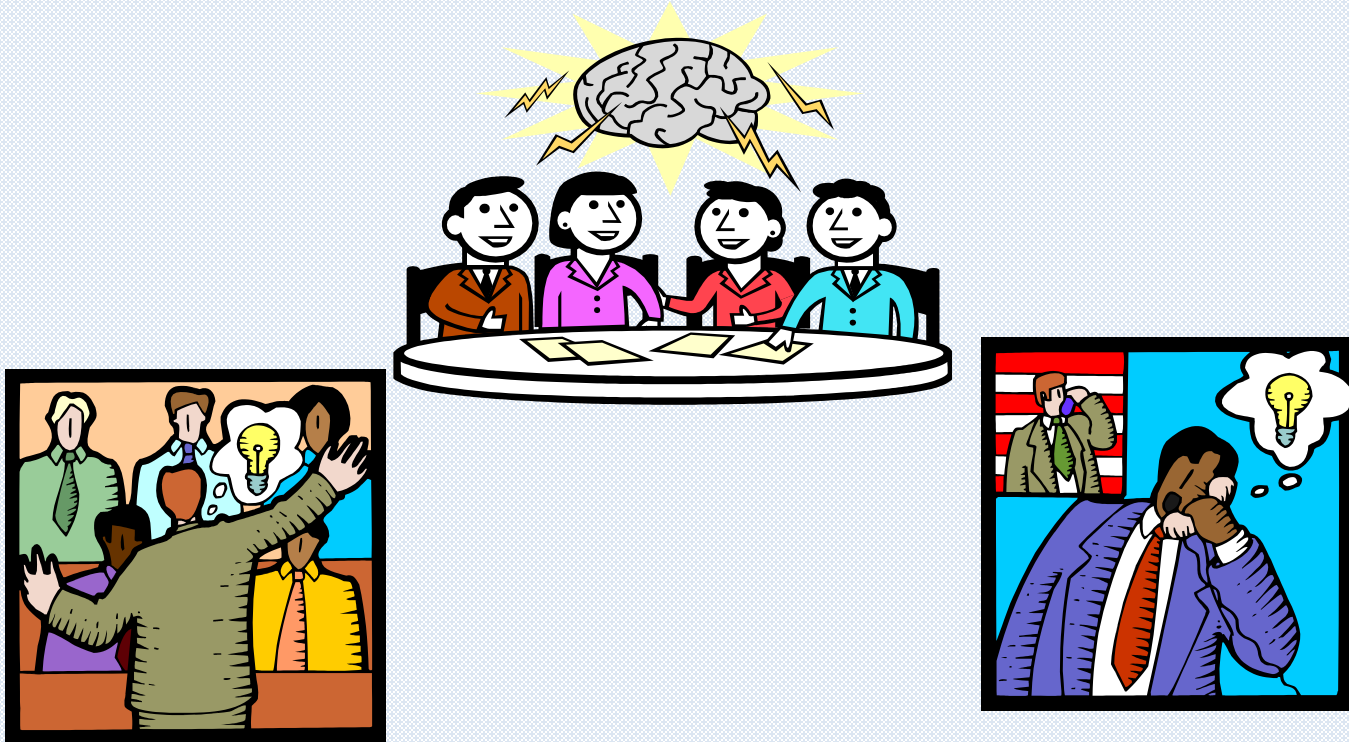


Select the best solution and
explain why it is the best
solution





Develop an Action Plan





Prepare a Class Project Portfolio

The digital portfolio should identify:

- ✓ the problem selected and why it was selected
- ✓ alternative policies
- ✓ the policy selected and why,
- ✓ an action plan
- ✓ reflections about the process and what was learned and
- ✓ a backup binder with research, letters, etc.



Present the Portfolio

Four basic goals of the presentation:

- Inform the audience of the importance of the problem identified
- Explain and evaluate alternative policies so audience can understand
- Discuss why the class choice was the “best” policy and that it is constitutional
- Demonstrate how the class could develop support for the policy (the action plan)



Reflect on the Learning Experience

- Once your class has completed the portfolio, add a reflection section to the Documentation binder.
- Describe what and how the class learned from developing the project, skills as well as knowledge.
- This should be a cooperative class effort.



- An overview, steps, resources and projects from classes of students over the last decade are on the Center's website at <https://civiced.rutgers.edu/programs/project-citizen> (under Overview)
- The Center is offering a free, full-day workshop on *Project Citizen* on **March 5, 2024** at Rutgers
- Projects can be completed in 6-8 weeks working on them one day a week



- The Center sponsors an annual statewide *Project Citizen* Showcase
- First week of June—Wednesday, June 5th this year
- Classes of students present their projects
- Highest scoring middle and high school projects are sent to a National *Project Citizen* Showcase held digitally in July



Benefits of Civic Engagement

6.3.8.CivicsPD.3: Construct a claim as to why it is important for democracy that individuals are informed by facts, aware of diverse viewpoints, and willing to take action on public issues.

Athenian statesman Pericles said: “We do not say that a man who takes no interest in politics is a man who minds his own business; we say that he has no business here at all”.

What does he mean by this statement?



What are the benefits to individuals of participating in the civic life of the community/country?

- Acquiring skills, such as speaking and debating in public, organizing groups and writing letters
- Becoming more self-confident
- Learning how to affect decisions
- Building a reputations as an important member of the community
- Making new friends
- Developing important contacts



What are the benefits to society when individuals participate in civic life?

- In a multiethnic, multi-religious country based on the shared secular ideas of liberty and justice rather than the “blood and soil” nationalism of European countries, a common understanding and appreciation of these fundamental American values was seen as critical.
- Individual participation in the civic life of a democracy is critical for national cohesiveness. The results of elections are not enough.



What might happen if individuals are not informed or do not participate in their government?

- We will not have very good government
- We will not be able to solve important public policy problems



How can individuals help ensure that the American experiment in democracy continues?

- Voting
- Holding elected representatives accountable
- Bringing ideas to governmental officials
- Running for office
- Having civil discourses about current events
- Peacefully protesting when there is an unfair law or process that needs to be brought to the attention of the public and addressed and public officials are ignoring it



How can we make this
understandable for our
students?

***“Democracy is a social and ethical
commitment, not limited to the ballot
box, that must be lived and practiced in
all spheres of life.”***

John Dewey, 1888



- Take sample *We the People* and *Project Citizen* middle school student textbooks
- Go to our [website](https://civiced.rutgers.edu/civics/middle-school-civics) at <https://civiced.rutgers.edu/civics/middle-school-civics> for resources
- Contact us at:
 - Arlene Gardner at arlenega@sas.rutgers.edu
 - Robert O'Dell at robert.odell@rutgers.edu
 - Craig Uplinger at cupliner2@gmail.com