



Judicial Decision-Making and the Constitution

OVERVIEW: The goal of this activity is to understand how judges make decisions through the interpretation and application of law. In this lesson, students will apply the Constitution and case precedent to a real case scenario. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution will be examined and applied.

OBJECTIVES: Upon successful completion of this activity, students will be able to:

- Analyze the Fourteenth Amendment;
- Apply the Fourteenth Amendment and case precedent to specific case studies; and
- Weigh complex social issues from a constitutional framework.

MATERIALS NEEDED: Copy of Fourteenth Amendment Handout A
PowerPoint Presentation
Supreme Court Case Study Form/Handout B
Brown v. Board of Education of Topeka/Handout C
Constitutional Question/Handout D
Court Decisions (for facilitator only)

TIME REQUIRED: 90 minutes recommended. Can be shortened or lengthened. Can also be divided into two lessons.

NEXT GENERATION SUNSHINE STATE STANDARDS:

Grades 6-8
SS.7.C.3.12

Grades 9-12:
SS.912.C.3.10

ACTIVITIES:

This handout will be used in conjunction with the PowerPoint presentation titled: “The Courts and the Constitution: Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)”

1. **Slide 1:** Introduce yourself and let the students know that they will be given an opportunity to act like real judges to decide an actual issue that was decided by the United States Supreme Court.
2. **Slides 2 – 7:** Begin the course by asking participants what knowledge, skills, and qualities they think judges should have. Discuss their answers. Continue the discussion by distinguishing judges from politicians.



3. **Slides 8:** Inform students that today they will be experiencing the judicial branch first hand. Today they will become judges.
4. **Slides 9-10:** Dissect the relevant portions of section 1 of the Fourteenth Amendment with the students. Using the PowerPoint, have a student read one section of the Fourteenth Amendment and then follow it up with a discussion.
5. **Slide 11:** Facilitate a discussion with regard to what the Privileges and Immunities Clause and the Equal Protection Clause in section 1 of the Fourteenth Amendment mean.
6. **Slides 12-14:** Discuss the Slaughter-House Cases, 83 U.S. 36 (1872), to help define “privileges and immunities”
7. **Slides 15-17:** Discuss Strauder v. West Virginia, 100 U.S. 303 (1879), to help define “Equal Protection.”
8. **Slide 18:** Have a student read § 5 of the Fourteenth Amendment and discuss.
9. **Slide 19-20:** Introduce the Civil Rights Act of 1875 as a unique interaction between Congress and the United States Supreme Court. Slide 19 discusses Congress’ passage of the Act, whereas Slide 20 discusses the Supreme Court’s interpretation of the Act in the Civil Rights Cases, 109 U.S. 3 (1883).
10. **Slides 21-35:** These slides present cases that demonstrate how the Supreme Court interpreted the Equal Protection Clause before its decision in today’s case, Brown v. Board of Education.
11. **Slide 21-25:** Discuss Plessy v. Ferguson, 163 U.S. 537 (1896).
12. **Slides 26-28:** Discuss Lum v. Rice, 275 U.S. 78 (1927).
13. **Slides 29-31:** Discuss Gaines v. Canada, 305 U.S. 337 (1938).
14. **Slides 32-35:** Discuss Sweatt v. Painter, 339 U.S. 629 (1950).
15. **Slides 36-39:** Begin preparing students for the task that lies ahead of them: Deciding a real case that was decided by the United States Supreme Court.
16. **Slides 40:** Present, for the first time, the constitutional question that they must decide.
17. **Slides 41-42:** Allow the students to individually answer the questions.



18. **Slides 43-46:** Divide participants into groups of five to simulate a Supreme Court conference. In this Supreme Court conference activity, each group should:
 - Select a Chief Justice in each group to maintain order and lead discussions. Remaining participants are associate justices.
 - Discuss in each group why the search was constitutional or unconstitutional based on participants' knowledge of the Fourth Amendment.
 - The Chief Justice will poll the justices to determine the final decision of the Court. This will be discussed to try and reach a unanimous court decision. Give at least 10-15 minutes.
19. Have each group's Chief Justice come to the front and present the decision of their court. Tally responses.
20. **Slide 47:** Debrief with the actual U.S. Supreme Court decision.



COURT DECISIONS: FOR THE FACILITATOR

In 1951, a class action suit was filed against the Board of Education of Topeka in the United States District Court for the District of Kansas. The District Court ruled in favor of the Board of Education, relying on Plessy v. Ferguson, 163 U.S. 537 (1896). The three-judge District Court panel found that segregation in public education has a detrimental effect upon African-American children, but denied relief on the ground that the “colored” and “white” schools in Topeka were substantially equal with respect to buildings, transportation, curricula, and educational qualifications of teachers.

On direct appeal to the United States Supreme Court, the High Court consolidated similar cases from Kansas, South Carolina, Virginia, and Delaware. The Court noted that the cases “are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.”

DO NOT ANNOUNCE UNTIL CONCLUSION OF THE ACTIVITY:

In a unanimous decision, the United States Supreme Court held that the “separate but equal” doctrine in the field of public education is unconstitutional and violates the Fourteenth Amendment. The Court reasoned that segregation, in and of itself, was harmful to African-American students. The Court rejected its prior approval in Plessy of the “separate but equal” doctrine.



FOURTEENTH AMENDMENT – UNITED STATES CONSTITUTION

§ 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State . . . deny to any person within its jurisdiction the equal protection of the laws.

§ 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.



Case Study/Supreme Court Conference

I. What are the Facts? _____

II. State the Issue to be Decided: _____

III. Arguments For Petitioner/Appellant: _____

IV. Arguments For Respondent/Appellee: _____

V. What Would You Decide? _____

VI. Reasons/Evaluation: _____

VII. Mock Supreme Court Conference Decision: _____

VIII. Actual Decision of the Court: _____



Brown v. Board of Education of Topeka

A number of African-American children in Topeka, Kansas were denied access to all-white schools due to a statute that permitted, but did not require, segregated public school facilities. The doctrine of separate but equal, as articulated in Plessy v. Ferguson, required that separate facilities had to be of equal quality.

Oliver Brown and 12 other plaintiffs sued the Board of Education of Topeka, Kansas. The plaintiffs asserted that segregation is fundamentally unequal, and that the Board of Education's segregationist policies violated the Fourteenth Amendment. The federal district court found that segregation in public education did have a detrimental effect on African-American children. However, the district court denied relief on the basis that the "colored" and "white" schools at issue either had been equalized, or were being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors.



Issue

Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other “tangible” factors may be equal, deprive the children of the minority group of equal educational opportunities?

Handout D