

# Eighth Grade Social Studies Overview

## Social Studies

### First Semester

Qualities of good citizenship  
Community leaders  
Decision making  
Immigration and citizenship  
Disability awareness  
Personal and public health  
Political heritage and governing structures  
Landmark cases of the U.S. Supreme Court  
Civic debate

### Second Semester

Voting rights and responsibilities  
Branches of the U.S. federal government  
State and local government  
Media influence and news literacy  
Civic involvement  
Earth stewardship  
Community service project  
Landmark cases of the U.S. Supreme Court  
Civic debate

**Grade 8**

**Civics**

**Teacher Manual**



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# Introduction

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This teacher manual is designed to help you support your student as they explore the subject of civics. Students will be developing their skills in reasoning, rhetoric, critical thinking, problem-solving, research, exposition, and persuasive writing. The course focuses on the government and founding documents of the United States, but most lessons and assignments can easily be adapted for students living in other countries.

While some of the assignments require specific answers, which are included in this teacher manual, many of the assignments in this course are more open-ended and may generate a variety of answers. We have included suggestions for guiding your student and assessing their work, including what to look for in a student response and how to support developing skills.

You are encouraged to view learning as a process. Incorrect answers and disorganized work provide an opportunity for the student to learn and develop skills. Approach the task of reviewing and assessing work as a way to guide and shape your student's learning experience. Whenever possible, express interest in what your student is studying and show an interest in the work your student produces. Watch relevant videos together. Use the assignments as a springboard for discussions. Ask questions and listen to your student's response. These simple actions will result in a richer learning experience for both you and your student.

## Lesson

# 1

# Values of Citizenship

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## Learning Objectives

At the end of this lesson you will be able to:

- Express thoughts and ideas in civil discussion.
- Identify real life examples related to concepts of equality and justice.
- Summarize news articles.

## Reading

Read the following sections (found in Reading Selections at the end of this lesson).

- What Is Civics?
- Qualities of Good Citizenship
- Being an Informed Citizen

In each lesson, before you begin reading, glance over the length of the reading selections to get an idea of how much reading is involved. If you find a lot of reading material, you will probably want to read one or two sections and then take a break before reading more. This will help you better understand and remember the material.

In addition to the reading selections in this coursebook, you are encouraged to learn more about topics you are interested in by visiting the library, reading newspapers, and doing research online. You'll find a list of online resources at [www.oakmeadow.com/curriculum-links/](http://www.oakmeadow.com/curriculum-links/). You can use these links to learn more about lesson topics. Your community may also have helpful resources that you can use.

You may find it useful to keep a journal for this course, using it to record your reflections, questions, ideas, and other thoughts about what you are learning. It will also help to practice active reading skills: underline reading passages that you want to remember or go back to, circle or highlight key ideas, define important terms in the margins, write down questions, or underline things you want to learn

## ASSIGNMENT SUMMARY

- ☐ Complete reading selections.
- ☐ Reflect on and discuss issues.
- ☐ Explain the concept of equality.
- ☐ Give an example of a conflict of personal freedoms.
- ☐ Describe an example of justice in action.
- ☐ Give an example of disrespect or injustice.
- ☐ Collect and summarize positive news articles.

more about. Active reading will help you gain a deeper understanding of the lesson topics and remember and retrieve the information more easily.

**See the student coursebook for the reading selections. Encourage your student to view the online links noted above.**

## Reflect and Discuss

Many communities struggle with unwanted graffiti, which can range from annoying to obscene to evidence of dangerous activity. Graffiti is considered by some to be an art form and those who draw graffiti (“taggers”) are sometimes called “graffiti artists.” Is tagging public property (or the property of others, such as the fence of a business or a train car) ever justified or acceptable? Are there ways that graffiti could contribute to a community in a positive way? Under what circumstances might graffiti be acceptable?

Take some time to reflect on your feelings about this topic, and then find someone—a friend, family member, neighbor, or community member—to discuss it with. Find out what they think and why. Share your thoughts. This is civic debate and *rhetoric* (the art of persuasive speaking or writing) and it is at the heart of any democracy.

**Throughout the course, students are offered reflection and discussion prompts. Giving students the opportunity to think about issues and share ideas in conversation is vital for helping them develop skills in reasoning, constructing an argument, considering alternate viewpoints, and forming and changing opinions as new information is gathered. Some students will be eager to discuss issues while others will need to be coached in how to engage in effective, respectful civic debate. Adults can model listening skills, ask questions to prompt discussion, and state opinions in well-reasoned arguments.**

## Assignments

Before you begin the first assignment, read through all the assignments. This will help you figure out how to best manage your time. Do this for each lesson. All assignments in this course are done after completing the required reading (listed above).

1. In any society, citizens do not have equal jobs, equal education, equal ability, or equal money. Explain what you think equality means in this country.

**Answers will vary. Comments may touch on the ideas of equal opportunity, social equality, and equal liberties. The United States is, at least in principle, a classless society in which the same rights are guaranteed to all.**

2. We have the freedom to play the kind of music that we like. But do we have the freedom to walk down the street playing loud music? We have the freedom to have pets, but do we have the right

to allow our animals to roam in other people's yards? How might your freedom interfere with another person's freedom? Give at least two specific examples.

**Examples should include specific situations in which one person is infringing on another's sense of freedom, such as siblings sharing a room and disagreeing on the arrangement of furniture or state of chaos; teenagers playing music that is distasteful to parents and vice versa; and someone's speech being offensive to others.**

3. Define justice in your own words. Describe an example of justice in action in your own life, the life of someone you know, or in the life of a public figure.

**Justice is the quality of being fair, and having moral rightness. However, many disagree on what is fair or moral, so justice, in the context of civics, is usually discussed in terms of upholding the law. Examples from the student should make the meaning of justice clear through the circumstances of the story or situation described. Examples might include someone being fined for littering or people accused of a crime successfully defending themselves in court.**

4. Do you know of an incident in which a person or group experienced disrespect, injustice, or a lack of freedom? This can be a real example from your life, the life of someone you know, or something you read about or heard on the news. Explain what happened.

**Examples should offer specific situations to back up the student's claim that unequal respect, freedom, or justice was present in the real or fictitious situation described. This is an opportunity for the student to think about how inequality exists in our daily lives, despite the ideals and principles we hold.**

5. For two weeks, look for news articles that tell a positive story about a person or event that contributed to our society. Assemble these articles in a collage or little booklet. Next to each article, briefly summarize this "good news."

**Students will find relevant, reliable news sources on the Curriculum Resource Links page at [oakmeadow.com](http://oakmeadow.com) or they can search other outlets for news with a positive spin. Often news outlets focus on the problems of the world rather than highlighting solutions. In fact, students may be used to viewing "the news" as all bad. This assignment helps them gain an understanding that there are all types of news, good and bad, and that very little national attention is paid to news of people making positive impacts on their communities. This project is designed to help students become aware of positive contributions being made by people every day.**



## Learning Checklist

Use this learning checklist to keep track of how your skills are progressing. Include notes about what you need to work on. Please remember that these skills continue to develop over time, and you aren't expected to be able to do all of them yet. The main goal is to be aware of which skills you need to focus on.

**Students are encouraged to fill in the learning checklist included in their coursebook. You can use the checklist below to keep notes on the progression of skills. Use any notes from the student to help develop a plan of support.**

SKILLS	Developing	Consistent	Competent	Notes
Express thoughts and ideas in civil discussion				
Demonstrate understanding of concepts of equality and justice				
Identify real life examples related to concepts of equality and justice				
Identify relevant, accurate news sources				
Summarize news articles				
Identify key ideas in primary and secondary sources				

## Lesson

# 2

# Community Leaders

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## Learning Objectives

At the end of this lesson you will be able to:

- Identify needs of community members.
- Describe civic work done by international groups and individuals.
- Conduct and summarize an interview.

## Reading

Read the following sections (found in Reading Selections at the end of this lesson).

- Champions of Freedom
- International Cooperation
- Community Leaders

## Assignments

1. This week, try to do at least two things to be a good citizen of your neighborhood. Here is a list of some things you might do, or you can come up with your own ideas:
  - Take a neighbor a gift of flowers you picked or food you prepared.
  - Help your neighbors do yard work.
  - Run an errand for a neighbor.
  - Visit an elderly neighbor who lives alone and might enjoy company.
  - Clean up around your neighborhood to make it look better.
  - Offer to help a family with young children with childcare, chores, or errands.

## ASSIGNMENT SUMMARY

- ☐ Complete reading selections.
- ☐ Perform helpful tasks in your neighborhood and write about it.
- ☐ Choose an activity to complete.
- ☐ Interview a first responder.
- ☐ Complete your collage or booklet of positive news articles.

- Organize a potluck or neighborhood block party.
- With your parents, check the listings on Freecycle.org, an online forum for people to exchange things for free, and see if you have something to give away to someone who needs it.

Afterward, write down what you did. How did you feel after being a good neighbor? What was your neighbor's response? How can you continue to be a good neighbor? Write down your thoughts.

**The student should not only report on the experience of doing three neighborly acts but consider how they can continue to be a good neighbor in the future. While students should not be forced to do something that makes them feel uncomfortable, part of the purpose of this activity is to challenge students to move out of their comfort zone and try something new. At this age, students are growing into a more mature sense of compassion and an awareness of life outside their family unit. Putting the needs of others before their own is an excellent way to encourage this growth.**

2. Choose one of the following activities.

**Students will choose an activity that focuses on humanitarian work being done by individuals and international groups to benefit people around the world. Encourage your student to talk about what they've learned.**

- a. Read the Universal Declaration of Human Rights (found in the appendix). Draw a poster or create a picture that celebrates this vital document.
  - b. Choose one of the agencies of the United Nations to learn more about. Give a summary of what the agency does and who benefits.
  - c. Choose one of the "champions of freedom" mentioned in the reading selection, or someone else in whom you have an interest, and learn about their life's work. Describe some of the person's most significant contributions to humanity.
3. Interview a local firefighter, police officer, or EMT or paramedic. Ask questions such as the following (feel free to come up with more questions of your own):
    - What are the requirements for your job? What was the training like?
    - What do you do in a typical workday?
    - What is one of the hardest parts of your job?
    - What is the most rewarding part?
    - Why did you choose this career? What other careers did you consider? Would you make the same career choice again?

Write a summary of the interview, making sure to give the person's full name and job title. Alternately, you might like to record the interview on video and then edit it down to show the highlights of what you talked about.

**Interviewing an adult in person can be challenging for many students. When evaluating the student's work, take into consideration the effort involved in organizing, conducting, transcribing, and summarizing the interview as well as the self-confidence needed to carry it out.**

- Continue to collect positive news articles. Summarize each one and add it to your collage or booklet. Complete this project by the end of the week.

**Students should have a collection of stories from various news outlets. Each story should include its source and a brief description written by the student. Stories should be compiled in an organized way.**



### **Up for a Challenge?**

Have you ever seen a Little Free Library? These small structures are popping up in neighborhoods all around the country. Learn about how to construct one of your own and find books to stock it with that anyone is welcome to take and keep or read and return. If you don't have a place to put up a Little Free Library, you can still build one and then offer it to anyone who wants one.

**Students will be offered optional challenges in some of the lessons. These activities provide students with more ways to explore the lesson topic. These activities are not required.**

## **Learning Checklist**

Use this learning checklist to keep track of how your skills are progressing. Include notes about what you need to work on. These skills will continue to develop over time.

<b>SKILLS</b>	<b>Developing</b>	<b>Consistent</b>	<b>Competent</b>	<b>Notes</b>
Identify needs of community members				
Conduct an interview				
Summarize an interview				
Summarize news articles				
Identify key ideas in primary and secondary sources				

## Lesson

# 5 / 6

# Landmark Cases and Civic Debate

## Learning Objectives

At the end of this lesson you will be able to:

- Identify key aspects of a court case.
- Compare the merits of opposing sides of an issue.
- Express or interpret a political or social stance in artistic form.

At the end of each unit, you will have the opportunity to read about an actual case that was decided by the United States Supreme Court, the highest and most influential court in the nation.

Important cases that come before the Supreme Court are often called **landmark cases** because they have a powerful impact on society, and they inform and influence other court cases for decades afterward.

You will also have a chance to examine an important civic issue. You will look at the issue from the perspective of a concerned citizen, researching both sides and forming an opinion on the topic.

Look over the entire lesson before you begin so you can get a sense of what you will be doing.

**This end-of-unit lesson requires students to read material that may be challenging on a technical and conceptual level. Take into account how much support and guidance your student might need. A glossary of legal terms is included in the student coursebook but there will undoubtedly be additional terms they will need to define or have explained.**

## ASSIGNMENT SUMMARY

- ☐ Learn about a landmark court case.
- ☐ Define unknown legal terms.
- ☐ Complete “Landmark Case: Looking Inside.”
- ☐ Write a summary of the court’s decision and your opinion of it.
- ☐ Give an opinion on a controversial issue.
- ☐ Complete “Compare and Evaluate.”
- ☐ Locate or create an artistic commentary on a social or political issue.

## Landmark Supreme Court Cases

Read through the following list of cases that were decided by the United States Supreme Court. After the name of the case, you will see the year the case was decided by the court and how the Supreme Court justices (judges) voted. A 5–4 decision means that 5 justices voted in favor of the case and 4 justices voted against it.

- *Plessy v. Ferguson* (1896) (7–1 decision for Ferguson) Racial segregation is allowed in “separate but equal” public facilities
- *Chaplinsky v. New Hampshire* (1942) (9–0 decision for New Hampshire) Freedom of Speech (the 1st Amendment) does not protect “fighting words” that can provoke violence or cause an immediate breach of the peace.
- *Korematsu v. United States* (1944) (6–3 decision for United States) Confinement of U.S. citizens of Japanese ancestry during WWII is justified.
- *Brown v. Board of Education* (1954) (9–0 decision for Brown) Racial segregation of schools is ruled unconstitutional.

You will choose one of these cases to learn more about. There are many technical and legal terms used in court cases. But before you begin your research, familiarize yourself with the glossary of legal terms. As you read cases and do research, you are likely to find other terms you don’t know. Look up the definitions and then add them to this glossary.

**See the student coursebook for the Glossary of Legal Terms.**

**There are many good sources for easy-to-understand summaries of cases and decisions of the Supreme Court. As the course progresses, students will be asked to refer to primary source material such as majority and dissenting opinions handed down by the Court. The assignments are designed to lead students through this process to develop their understanding and critical thinking skills in a sequential way. However, some students may need additional support and guidance through the process.**

**While court cases often refer to Constitutional amendments, these cases are first presented to students as human rights issues rather than constitutional rights. Later in the course, the United States Constitution will be explored in detail and students will be asked to apply knowledge of the Constitution to Supreme Court cases. Students are not yet expected to explain this connection.**

## Landmark Case Assignments

1. Choose a case and read a summary. You can easily find these online or in a library. Check the Curriculum Resource Links for this course at [www.oakmeadow.com/curriculum-links/](http://www.oakmeadow.com/curriculum-links/). The resource links for all lessons about landmark Supreme Court cases are found at the top of the list under the heading “Landmark Cases and Civic Debate.”

These cases may be challenging to read, not just because of the subject matter but because highly educated adults are writing them for an adult audience. You aren’t expected to understand everything you read. However, you should be able to understand enough to answer the questions below. If you have trouble understanding the case you have found, you might ask an adult to help explain it. *Uscourts.gov* is an excellent place to gain a general understanding of a topic. You can find basic explanations of each of these cases on numerous other sources as well. (See [www.oakmeadow.com/curriculum-links/](http://www.oakmeadow.com/curriculum-links/) for more ideas.)

**Students are not expected to gain a complete and comprehensive understanding of a complex case; however, they are expected to gain an overview of the issues raised. See below for summaries of the cases.**

2. As you read, make a list of words and phrases you don’t understand. Find out the definitions and add them to the glossary of legal terms.

**Check that the student is writing down and taking the time to learn unfamiliar words. This will help greatly in understanding the proceedings and outcomes of the cases.**

3. Once you have read a summary of the case and the decision, complete “Landmark Case: Looking Inside” (on the next page). Answer the questions in your own words. The information you need is often included in the summary but if not, you will have to do more research to find out how the lawyers for each side presented their case.

### **Case #1 *Plessy v. Ferguson***

**Plaintiff:** Homer Plessy

**Defendant/Respondent:** John H. Ferguson

**Case background:** A Louisiana law required railroad companies to provide separate but equal coaches for white and non-white passengers. On June 7, 1892, Homer Plessy, a Louisiana resident of one-eighth African descent who had Caucasian features, entered a train car that was designated for Caucasian passengers. When asked by the conductor to move to a train car designated for those of African descent, Plessy refused and was forcibly removed from the train, jailed, and accused of a criminal act. At his trial in Louisiana district court, Plessy argued that the Louisiana law violated the “equal protection” clause of the 14th Amendment, but the judge in his case, John H. Ferguson, stated that the law did not violate the Constitution and ordered Plessy to pay a \$25 fine. After this verdict was upheld in the Louisiana Supreme Court, the U.S. Supreme Court agreed to review the case.

**What is the plaintiff arguing for or against?** Plessy argued for his right to sit where he chose on the train.

**Give one reason supporting the plaintiff's claim.** By being prevented from riding in the train car of his choice, he was being discriminated against and deprived of his rights. Students may cite other reasons.

**How did the defendant respond to the claim?** The defendant argued that the Louisiana law was valid and since Plessy was breaking the law, the conductor was justified in removing Plessy from the train.

**Give one reason supporting the defendant's response.** Providing separate facilities to different races does not constitute discrimination because facilities are "equal" and do not imply inferiority based on race. Students may cite other reasons.

### **Case #2 *Chaplinsky v. New Hampshire***

**Plaintiff:** Walter Chaplinsky

**Defendant/Respondent:** New Hampshire Supreme Court

**Case background:** In 1942, a New Hampshire law prohibited anyone from using offensive or derisive language or name-calling in public. Walter Chaplinsky was speaking on a public sidewalk and passing out religious pamphlets. A town marshal, who passed by Chaplinsky shortly after he began, allegedly warned him that, although the gathering was lawful, he was going to cause trouble with his language. Eventually, a large crowd gathered, blocking streets and causing a disturbance. Despite the fact that it was the crowd causing the disturbance, police took Chaplinsky into custody, whereupon Chaplinsky saw the town marshal who had spoken to him earlier and called the marshal a "God-damned racketeer" and a "damned fascist." Chaplinsky was then arrested and convicted of breaking New Hampshire's "offensive speech" law and assessed a fine. Chaplinsky appealed this fine, claiming that the rule violated his right to free speech. His appeal eventually made it to the U.S. Supreme Court.

**What is the plaintiff arguing for or against?** Chaplinsky argued that the New Hampshire law infringed upon his right to free speech.

**Give one reason supporting the plaintiff's claim.** Chaplinsky was simply stating his opinion about the motives of the persons he felt were responsible for improperly detaining him. Students may cite other reasons.

**How did the defendant respond to the claim?** The state asserted that Chaplinsky's words served no purpose but to create a disturbance of the peace (i.e., they were "fighting words") and were in direct violation of the law.

**Give one reason supporting the defendant's response.** The New Hampshire law only restricted face-to-face speech that has a direct tendency to incite violence and breach the



peace, and that such “fighting words” may be restricted under the 1st Amendment, as that type of speech serves no role in the exposition of ideas. Students may cite other reasons.

**Case #3 *Korematsu v. United States***

**Plaintiff:** Fred Korematsu

**Defendant/Respondent:** United States

**Case background:** During World War II, President Franklin D. Roosevelt authorized the United States military to remove people of Japanese descent from certain military areas and nearby communities, citing the need to prevent espionage and/or sabotage on U.S. soil. Over 120,000 people, more than half of whom were U.S. citizens, were forced from their homes and transported to detention camps. Fred Korematsu, a U.S. citizen of Japanese ancestry, refused to leave his home near San Francisco, California, and was subsequently arrested and convicted of violating military orders. Korematsu appealed his conviction, claiming that Roosevelt’s executive order violated the 5th Amendment, which prevents the government from depriving persons of their life, liberty, or property without due process of the law. The U.S. Court of Appeals refused his appeal and the case was sent to the U.S. Supreme Court.

**What is the plaintiff arguing for or against?** Korematsu argued he was being forced from his home into an internment camp based solely on his race and without any sort of trial or other procedure to determine whether he posed a risk of espionage or sabotage.

**Give one reason supporting the plaintiff’s claim.** Since *all* persons of Japanese descent were being relocated to detention centers without any sort of trial or procedure to determine whether they posed a risk to national security, they were being deprived of liberty and property without due process of the law. Students may cite other reasons.

**How did the defendant respond to the claim?** The United States was at war, the President and Congress had given the U.S. military the discretion to take actions it deemed necessary to waging that war, and these actions took precedence over the rights that individuals normally enjoy during times of peace.

**Give one reason supporting the defendant’s response.** During times of war, the constitutional rights of all citizens are abridged in some way. Removing residents from their homes was permissible because of the “grave imminent danger to the public safety.” Students may cite other reasons.

**Case #4 *Brown v. Board of Education***

**Plaintiff:** Oliver Brown, Mrs. Richard Lawton, Mrs. Sadie Emmanuel, et al.

**Defendant/Respondent:** Board of Education of Topeka (Kansas)

**Case background:** This case arose from four cases in separate states, all of which involved African American students who had been denied admission to public schools that

Caucasian students attended based on the states' various segregation laws. The students all claimed that these segregation laws violated the equal protection clause of the 14th Amendment. Specifically, the students argued that the "separate but equal" doctrine set forth in *Plessy v. Ferguson* was invalid, and that segregated public systems are *inherently* unequal, even if the various schools are substantially equal in terms of curriculum, facilities, etc. After the four cases had worked their way through the state courts, with varying outcomes, the U.S. Supreme Court decided to hear all four cases as one because they all contained a common question of constitutional law.

**What is the plaintiff arguing for or against?** The plaintiff argued that African American children were being denied an equal education by being excluded from "white" schools, and that segregated public schools are inherently unequal, and the "separate but equal" doctrine was invalid.

**Give one reason supporting the plaintiff's claim.** By the very fact that they were forced to attend a separate school from Caucasian children, African American students were made to feel inferior. Students may cite other reasons.

**How did the defendant respond to the claim?** Under the law, public schools were allowed to be segregated and if segregated schools were truly made "equal," there was no violation of the law.

**Give one reason supporting the defendant's response.** As long as the facilities, curriculum, and other resources were "substantially equal," students would be given the same quality of education. Students may cite other reasons.

4. Write a brief summary of the decision and your opinion about it. If possible, include one direct quote from the decision in your explanation. Make sure to put the quote in quotation marks and specify who said or wrote it. Usually one justice will write an explanation of the majority opinion and one will write an explanation of the minority or dissenting opinion.

**Students should write the summary in their own words. It may help them to explain the decision aloud before writing it down. Students are likely to have strong opinions about the fairness or justice of the verdict. Look for these opinions to be stated clearly and respectfully.**

## Civic Debate

Important issues are debated every day in towns and cities all around the world. Sometimes issues are decided by a small committee or town representatives, and other times the issues are brought to the general public in a statewide or national vote.

When an issue comes before a group of people, they must first clarify what the issue involves. This can be done by making a statement, such as "The legal driving age should be raised to 18 years old." Creating a specific statement is essential. For instance, it is not enough to say "School shootings should

be stopped.” This is a statement everyone can agree with. The real question is what to do about it. If the issue is not whether school shootings should be allowed or not (everyone agrees they should not be allowed), what is the issue? This needs to be clarified. For instance, it might be phrased as “States should ban automatic assault rifles” or “Schools should install metal detectors to keep people from carrying guns into school.”

Once a statement or claim is made, the group can discuss their opinions and debate what effects or consequences might arise if the claim is made into a rule, regulation, or law. To make the debate more focused, the issue is often phrased as a YES/NO question that people can vote on.

In order to be fair to everyone involved, the group must make every effort to see the issue from many different perspectives. This helps ensure that the viewpoints and needs of all citizens are represented in the debate.

Let’s look at an example of how a group might tackle a difficult issue.

**Identify the issue:** A town library is requesting additional funds to develop programs to support the library users who are homeless.

**Form the issue as a YES/NO question:** Should the town fund library programs aimed at supporting patrons who are homeless?

**Background of the case:** In order to learn more about the issue, a librarian is invited to a meeting of the town council to explain the problem from her perspective. She states,

“At our library, the staff are taking a course in how to deal with homeless patrons. We have many homeless people that spend all day at the library, from when we open at 9:00 a.m. to when we close at 9:00 p.m. They only leave to go to the community kitchen for meals. Those with substance abuse problems will leave for brief periods to smoke, drink, or do drugs. Drunken people are the biggest problem. The smell in some of our rooms is like a bar at quitting time. It’s quite sad that there are no services for them during the day to guide them to health. We have a community problem that can only be solved through the generosity of the citizens.

“In our town, there are no services for these people except homeless shelters, which close during the day, and the community kitchen, which is only open for meals. I read that an Oakland, California library has a social worker on duty full time and volunteers are also on hand to guide homeless people to resources. In Santa Cruz, California, librarians have arranged for tutors to help patrons with creating resumes and job searches, which can help them find gainful employment, so they can afford a place to live. The librarians also connect patrons with other social services that may provide support. This issue is also being addressed in Boston and many other cities. Our community needs to figure out how to do our part in finding solutions to this problem.”

A spokesperson for a group of concerned citizens is invited to present their perspective on the issue:

“A library should be a safe and comfortable place for all patrons. Homeless people have begun loitering around the library building, sometimes blocking steps and entrances as they sit surrounded by their belongings. We are sympathetic to the problems facing the homeless population. The city has already committed funds to various social service agencies that support people who are homeless. This is the responsibility of each community and our community is already doing this.

“The library, however, should focus its resources and funds on programs that will benefit the majority of patrons, not just a small group of disadvantaged individuals. If programs aimed at homeless people are expanded, more homeless people will come to the library, making it harder and harder for others to feel comfortable there. Homelessness is a community problem but it’s not a library problem.”

**Weigh both sides of the issue:** Once both sides have been heard, the next step is to clarify the claims each is making and to look at the reasoning and evidence behind each claim.

- **Claim by Librarians:** The library needs more money for staff and resources to offer services to people who are homeless.
  - **Reasoning:** Helping this at-risk group will help the entire community.
  - **Evidence:** Helping people with computer access, technology skills, resumes, etc. will help them find work, get off the streets, and return to being productive members of the community.
- **Claim by Community Group:** The library should spend funds to improve programs that will benefit the majority of library users, not just one small group.
  - **Reasoning:** The library’s first priority is to provide a safe, welcoming place for the general public.
  - **Evidence:** Providing services for the homeless population will encourage more homeless to congregate around the library building, which can lead to issues regarding health and safety.

After weighing the claims, reasoning, and evidence, the issue is put to a vote. Once the vote is decided, there may be more discussions, debates, and research as the group looks for practical solutions to solve the problem or carry out the ruling.

**While civic issues may be easier for students to understand than Supreme Court cases, students may still be challenged by the skills of identifying key issues on both sides of an issue, articulating the reasoning given, and showing the evidence.**

## Civic Debate Assignments

1. Now it is your turn to make your voice heard on an issue! Here is a list of controversial issues. Some you might already be aware of; others might be new to you. All are issues being debated, discussed, argued over, and, sometimes, put to a vote. One day, you might be called on to help decide laws related to these issues. Give some thought to each topic and then choose one to focus on in this lesson (you'll have a chance to explore other issues on the list in other lessons).

### Issues for debate:

- NFL football players kneeling in protest during the national anthem
- a cell phone company plans to build a tower near a popular scenic mountain resort
- expanding right to die or physician aid in dying (PAD) laws to more states
- abolishing daylight savings time
- oil pipeline projects and protests (in the Dakotas and elsewhere)
- using tigers, elephants, and other wild animals in circus acts
- juveniles accused of a crime being tried as adults
- statewide bans on smoking in public places
- animals used in science experiments or testing
- young men but not young women are required to register for selective service

Conduct some basic research into the issue and summarize your findings. You don't have to write a long report or do hours of research; just consult two or three sources to get a general idea of the concerns and opinions involved on both sides of the issue. Make a note of your sources and include them when you share your work with your teacher. Citing your source makes it easy to refer back to the original information, if necessary.

**Students will need to do research on the topic of their choice. Look for the summary of the topic to be concise, balanced, informative, and accurate. If information is incomplete or disorganized, ask the student to clarify.**

2. Imagine this issue is brought to your town council for a vote. Complete "Compare and Evaluate" (on the next page). The first thing to do is to form the issue as a YES/NO question. Using the first topic in the list as an example, the issue might be formed in several different ways:
  - "Should football players be allowed to kneel in protest of racial discrimination during the national anthem?"
  - "Should NFL football players be penalized for kneeling during the national anthem?"
  - "Should peaceful political protests be allowed by professional athletes at a nationally televised game?"

**COMPARE AND EVALUATE****Issue:**

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**Form the issue as a YES/NO question (such as “Should \_\_\_\_\_ be allowed to happen?”):**

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Reasons in favor of issue (YES vote)

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Reasons against issue (NO vote)

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For the first and third example, a YES vote would be in favor of the kneeling players, and for the second question, a YES vote would penalize the players.

**Students will identify the issue and form it as a question that can be answered as yes or no. Students will then list reasons in favor of and against the issue. The goal is for the student to see the issue from the perspective of opposing sides to gain (and present) a balanced, comprehensive understanding.**

3. Political cartoons, advertisements, paintings, songs, and other styles of art are commonly used as political commentary. Try to find a piece of art that expresses issues related to the topic you’ve chosen or another current social or political issue. Write a brief explanation of what the art portrays and give credit to the source. Alternately, you might create a piece of art to express your views on an issue.

**This assignment requires students to interpret or create an artistic expression of an issue. The issue and opinion should be clearly expressed by the piece.**

## Learning Checklist

Use this learning checklist to track how your skills are developing over time and identify skills that need more work.

SKILLS	Developing	Consistent	Competent	Notes
Locate primary source material				
Identify key aspects of a court case				
Summarize a court decision				
Cite direct quotations in a relevant context				
Express an opinion on a court case				
Research facts and perspectives related to an issue				
Compare the merits of opposing sides of an issue				
Express or interpret a political or social stance in artistic form				



# Lesson 17/ 18

## Landmark Cases and Civic Debate

### Learning Objectives

At the end of this lesson you will be able to:

- Identify key aspects of a court case.
- Construct an argument based on reasoning and evidence.
- Reflect on the skills you have learned and challenges you've faced.

For the next two weeks, you will be exploring another landmark United States Supreme Court case and learning about civil debate. Look over the entire lesson before you begin so you can get a sense of what you will be doing.

### ASSIGNMENT SUMMARY

- ☐ Learn about a landmark court case.
- ☐ Complete “Landmark Case: Interpreting the Bill of Rights.”
- ☐ Identify one significant aspect of the case.
- ☐ Choose an issue to argue for or against and explain your choice.
- ☐ Complete “Constructing an Argument.”
- ☐ Complete a learning reflection.

### Landmark Supreme Court Cases

Consider these three cases:

- *Miranda v. Arizona* (1966) (5–4 decision for Miranda) Persons suspected of a crime have the right to remain silent to avoid incriminating themselves and to have an attorney present during questioning.
- *Texas v. Johnson* (1989) (5–4 decision for Johnson) Burning a U.S. flag as a form of political protest is protected as a form of freedom of speech.
- *West Virginia v. Barnette* (1943) (6–3 decision for Barnette) Schools cannot require students and teachers to salute the flag.

### Landmark Case Assignments

1. Choose a case and read a summary. If you come across any unfamiliar terms, find out what they mean and add them to the glossary in lesson 5/6. Take your time reading the case, focusing on one sentence at a time. Try to restate the sentence in your own words to see if you understand it.



Ask for help when you need it and use the resources available on the Oak Meadow Curriculum Resource Links page. Read more than one account of the case to get a clearer understanding of the principles and details.

Once you have read a summary of the case and the decision, complete “Landmark Case: Interpreting the Bill of Rights” (on the next page). Answer the questions in your own words. The information you need is often included in the summary but if not, you will have to do more research to find out how the lawyers for each side presented their case. Remember, you are summarizing this information, so try to explain things concisely.

### **Case #1 *Miranda v. Arizona* (1966)**

**Case name:** *Miranda v. Arizona*

**Year:** 1966

**Vote:** 5–4 decision for *Miranda*

**Issue at stake:** Under the 5th Amendment, which protects individuals from being forced to incriminate themselves, should the confessions of those accused of a crime be allowed as court evidence if the accused were not first advised of their right to remain silent and to have an attorney present during questioning?

**Summary of background:** This case is a consolidation of four different cases that involved an accused person confessing to a crime after being interrogated by police and subsequently being convicted at trial, where their confessions were used as evidence against them. In each case, the person had been in police custody and had been questioned without first being informed that they had the right to remain silent, that anything they said could be used against them in a court of law, that they had a right to have counsel present during questioning, and, if they could not afford counsel, counsel would be provided for them prior to any questioning by police. The plaintiffs argued that their rights under the 5th Amendment (specifically the right that no person “shall be compelled in any criminal case to be a witness against himself”) had been violated, because they were interrogated by police without first being informed of their right to remain silent and right to have counsel present during interrogation. Accordingly, the plaintiffs argued, their confessions should not have been admitted at their trials because they were obtained by compulsion. When the states’ appeal courts rejected these claims, the cases were consolidated and argued before the U.S. Supreme Court. The first of the four cases listed in the opinion was *Miranda v. Arizona*, so the opinion has taken that case as its name.

**Summary of decision:** The Supreme Court ruled that the 5th Amendment’s prohibition against self-incrimination means that a detained suspect’s decision to answer questions by the police must be voluntary. The Court then held that, for a suspect’s answers to be voluntary, the suspect must be apprised of their 5th Amendment rights *before* being questioned by police, and further, that any statements made by a suspect who has not been

so advised are inadmissible at trial. The statements set forth in the Court's guidelines are now referred to as the Miranda warning or Miranda rights.

**Constitutional Amendments cited by the prosecution (arguing for the plaintiff): 5th Amendment**

**Reasoning given in support of the Constitutional Amendment:** The Court held that the 5th Amendment's prohibition against forcing people to incriminate themselves is a hard-won and absolutely essential right granted under the Constitution. Accordingly, the Court held, the importance of this right outweighs any hinderance that it might place on the efforts of police to do their jobs.

**Reasoning given in support of the defense (the dissenting opinion):** The dissent argued that, while the right to remain silent is a right afforded under the 5th Amendment, and that suspects should be warned that they have this right prior to interrogation, the Court's opinion that a suspect must also be informed of their right to counsel, and that they will be provided counsel if they cannot afford it, goes beyond what the 5th Amendment actually guarantees. According to the dissent, the Court is creating new rights under the 5th Amendment, which will place an overly onerous burden on police.

**Case #2 *Texas v. Johnson* (1989)**

**Case name:** *Texas v. Johnson*

**Year:** 1989

**Vote:** 5–4 decision for Johnson

**Issue at stake:** Is burning or otherwise desecrating a U.S. flag protected as a form of free speech?

**Summary of background:** During the 1984 Republican National Convention, Gregory Lee Johnson participated in a large demonstration protesting President Ronald Reagan's policies and those of some Dallas corporations. At the end of the protest, he burned a U.S. flag in front of the Dallas City Hall. He was arrested and convicted of violating a Texas law that prohibited the desecration of venerated objects. In Texas court, he was convicted, sentenced to one year in prison and fined \$2,000. The Texas Court of Appeals overturned his conviction, and the case was then brought before the U.S. Supreme Court.

**Summary of decision:** The Court held that Mr. Johnson's burning of a U.S. flag as a form of political protest was an "expressive act" (i.e., noncommunicative, symbolic speech) that is protected under the 1st Amendment because it had the "intent to convey a particularized message," and, "the likelihood was great that the message would be understood by those who viewed it." According to the Court, Texas's argument that burning the U.S. flag is likely to cause a disturbance of the peace was unfounded, as no disturbance occurred, and it was done in a way unlikely to cause a disturbance. In fact, the Court stated, Texas had simply argued that the burning of the U.S. flag is likely to

offend some people, which could cause a disturbance of the peace. According to the Court, however, states do not have the right to “prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” The Court also held that the burning of the U.S. flag does not constitute “fighting words,” like those at issue in *Chaplinski v. New Hampshire*.

**Constitutional Amendments cited by the prosecution (arguing for the plaintiff):** 1st Amendment

**Reasoning given in support of the Constitutional Amendment:** The burning of the U.S. flag by Johnson was expressive or symbolic speech, as it was done to convey a political view, was not likely to cause a disturbance of the peace and did not constitute “fighting words.” Accordingly, it was entitled to protection under the 1st Amendment.

**Reasoning given in support of the defense (the dissenting opinion):** The dissent first went to great lengths to show that the U.S. flag is a very unique and venerated object that deserves protection. Thus, burning the U.S. flag is not speech that is protected under the 1st Amendment.

**Case #3** *West Virginia v. Barnette* (1943)

**Case name:** *West Virginia v. Barnette*

**Year:** 1943

**Vote:** 6–3 decision for Barnette

**Issue at stake:** Should students and teachers in public schools be required to salute the flag and recite the Pledge of Allegiance?

**Summary of background:** In many public schools during the first half of the 20th century, saluting the flag and reciting the Pledge of Allegiance was required of students and teachers, and refusal to do so carried the risk of expulsion. In a 1940 case, *Minersville School District v. Gobitis*, students who were members of the Jehovah’s Witness religion refused to say the Pledge of Allegiance because their religion prohibited pledging allegiance to any symbol or object. These students were expelled from school. They appealed their expulsion in federal court, eventually winding up in the U.S. Supreme Court, where the Court held that freedom of religion and speech does not mean that citizens can ignore their “political responsibilities.” Based on the *Gobitis* holding, West Virginia’s Board of Education created a rule that all students in West Virginia public schools were required to salute the flag and recite the Pledge of Allegiance. Several students who were Jehovah’s Witnesses refused and were expelled. The students challenged their expulsions, and the case eventually made it to the U.S. Supreme Court in *West Virginia v. Barnette*.

**Summary of decision:** The Court first held that the flag salute and Pledge of Allegiance clearly constitute “speech” under the 1st Amendment, as they involve an individual’s

ideas and beliefs about what the flag and the country stand for and a whole host of other political beliefs. The Court then held that, under the 1st Amendment, neither states nor the federal government can compel individuals into this type of speech because, “if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.” According to the Court, forcing students and teachers to salute the flag and recite the Pledge of Allegiance goes squarely against this “fixed star” of our understanding of the Constitution, and thus, the 1st Amendment prohibits compelling students to perform these actions. (Students may note parallels between this case and the recent actions by NFL players who chose to kneel during the national anthem as a form of protest—these actions emphasized the right of citizens to refuse to pledge themselves to ideas with which they are in conflict.)

**Constitutional Amendments cited by the prosecution (arguing for the plaintiff): 1st Amendment**

**Reasoning given in support of the Constitutional Amendment:** One of the fundamental concepts built into the Bill of Rights, and especially the 1st Amendment, is that government cannot force people to believe what it wants them to believe. To allow a state or the federal government to do so would go against the 1st Amendment.

**Reasoning given in support of the defense (the dissenting opinion):** The defense argued that states have the right to legislate with a view of creating good citizens within their states. In the dissent’s view, religious scruples of individuals are not enough to override laws that do not support or condemn any particular religion, but rather apply equally to all and are intended to create good citizens. The dissent stated that all individuals in West Virginia were free to have their own opinions while simultaneously saluting the flag and reciting the Pledge of Allegiance. Accordingly, because the dissent did not believe that the salute and pledge forced individuals to adhere to certain beliefs, the 1st Amendment did not apply.

2. What is one thing you found intriguing or unusual or significant about this case? Include a direct quote from the decision, if applicable.

**Answers will vary and should include a direct quote from the case.**

## Civic Debate

When people set out to make a change, they often have to convince others that their request or claim is valid. This usually entails constructing an argument by presenting reasons and providing evidence to support those reasons.

Let’s return to our original list of issues. Consider each one carefully and then choose one that you’d like to argue for or against. You can also come up with another issue that is important to you.

**Issues for debate:**

- NFL football players kneeling in protest during the national anthem
- a cell phone company plans to build a tower near a popular scenic mountain resort
- expanding right to die or physician aid in dying (PAD) laws to more states
- abolishing daylight savings time
- oil pipeline projects and protests (in the Dakotas and elsewhere)
- using tigers, elephants, and other wild animals in circus acts
- juveniles accused of a crime being tried as adults
- statewide bans on smoking in public places
- animals used in science experiments or testing
- young men but not young women are required to register for selective service

## Civic Debate Assignments

1. Briefly explain why you chose this issue and which side you will be arguing.

**There are no wrong answers here. Knowing why the student chose the issue may help when evaluating the student's responses.**

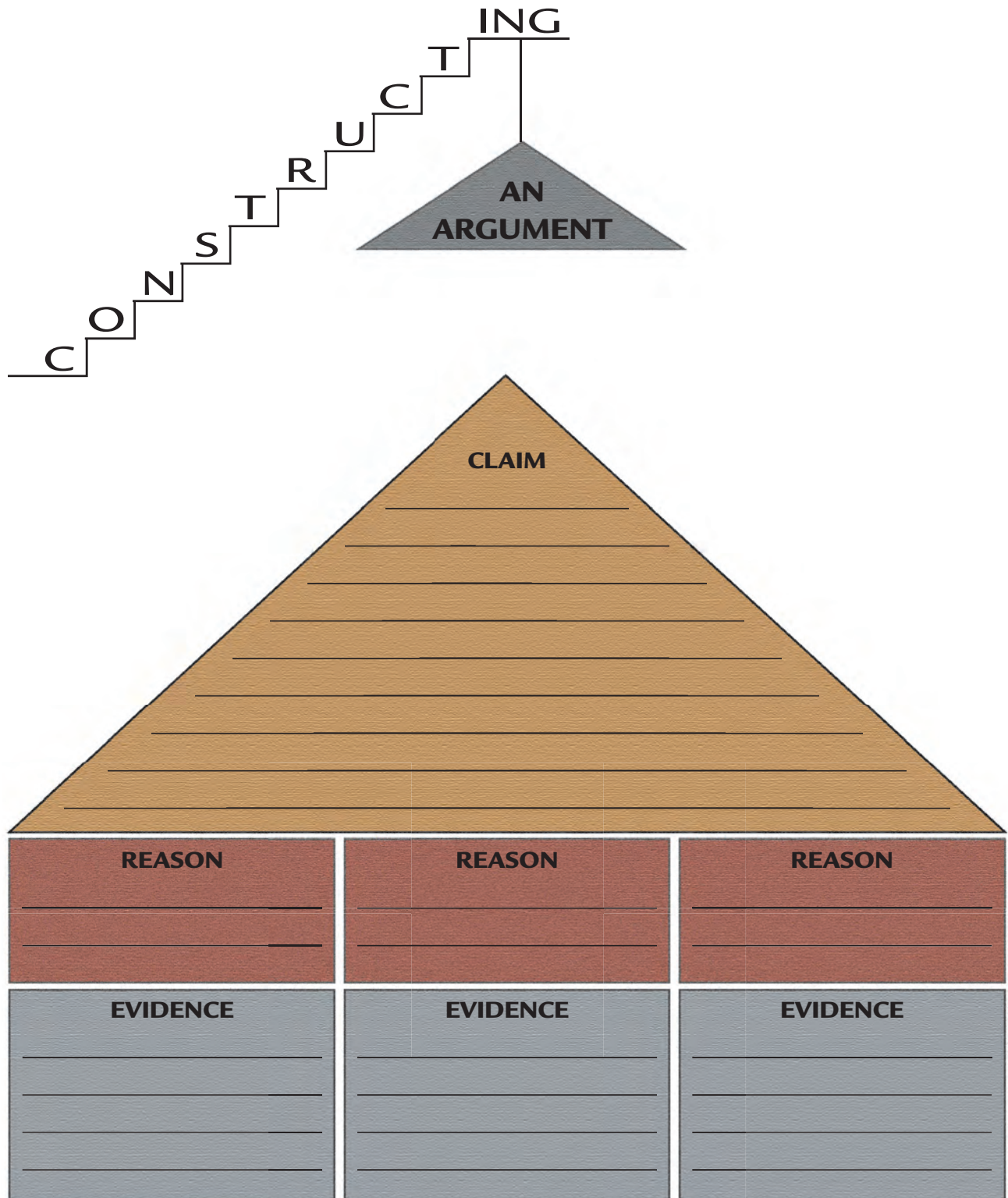
2. Research your topic to gather data to use as evidence in your argument, and then complete "Constructing an Argument" (on the next page). You might have to gather more data as you work on explaining your reasoning and backing it up.

**Evidence needs to directly relate to the reasoning and claim. Look for specific details and a clear expression of ideas. If the writing is not clear, ask the student to explain—sometimes talking about ideas can help students organize and clarify their thoughts.**

3. Since this lesson completes the first semester of the course, it is a good time to reflect on your work so far. Write down your responses in the following learning reflection.

**In the learning reflection below, students are asked to reflect on their work so far. Since the landmark cases and civil debate work is likely to be very challenging for most students, read the reflection responses carefully to determine ways to continue supporting the student in the second semester.**





## Learning Reflection

Take a few moments to look back over the previous lessons and then answer the following questions.

1. What topics interested you the most? Why?
2. You have studied in depth three landmark cases of the United States Supreme Court. This has been challenging work. What was the hardest part for you? Is there anything you needed help with or would like help with in future lessons?
3. Learning skills related to civic debate has also been part of each unit. You have learned to compare and evaluate claims, weigh two sides of an issue, and construct an argument. Has it gotten easier for you to explain reasoning and provide evidence? What is the hardest part of this process? What would make it easier?
4. If you could change one thing or add something to this course, what would it be?

## Learning Checklist

Use this learning checklist to track how your skills are developing over time and identify skills that need more work.

SKILLS	Developing	Consistent	Competent	Notes
Locate primary source material				
Identify key aspects of a court case				
Summarize a court decision				
Cite direct quotations in a relevant context				
Express an opinion on a court case				
Construct an argument based on reasoning and evidence				
Complete a learning reflection				

# Lesson 23 / 24

## Landmark Cases and Civic Debate

### Learning Objectives

At the end of this lesson you will be able to:

- Identify key aspects of a court case.
- Construct an argument based on reasoning and evidence.
- Express a thoughtful, well-reasoned opinion about a local issue.

For the next two weeks, you will be exploring a landmark United States Supreme Court case and learning about civil debate. Look over the entire lesson before you begin so you can get a sense of what you will be doing.

### ASSIGNMENT SUMMARY

- ☐ Learn about a landmark court case.
- ☐ Complete “Landmark Case: Political Debate.”
- ☐ Gather information about a local issue and complete “Debate: Refuting a Claim.”
- ☐ Formulate a thoughtful opinion about a local issue.

### Landmark Supreme Court Cases

When there is disagreement among Supreme Court justices, how does each side address or refute claims of the other in their final opinion? Consider these three cases:

- *Santa Fe Independent School District v. Doe* (2000) (6–3 decision for Doe) Supporting prayer at public school events is in direct violation of the Establishment Clause of the 1st Amendment, which prohibits any government actions that favor one religion over another or show preference for religion over non-religion (or vice versa).
- *Bush v. Gore* (2000) (7–2 decision for Bush) Recounting votes would be unconstitutional because different standards would be applied from county to county, making the recount unfair in practice. (While not considered a landmark case, this case is significant in terms of issues covered in lessons 19 and 20 regarding voting responsibilities and the Electoral College.)
- *Grutter v. Bollinger* (2003) (5–4 decision for Bollinger) Considering race in college admissions to achieve diversity in the student body does not violate the Equal Protection Clause of the 14th Amendment.



## Landmark Case Assignments

1. Choose a case to learn about. Read a summary carefully, checking your comprehension with each sentence or paragraph. If something is unclear, ask for help or read a summary of the case from another source to try to really understand what it was about.

Once you have read a summary of the case and the decision, complete “Landmark Case: Political Debate” (on the next page). Answer the questions in your own words, and include at least one direct quote from the majority or dissenting opinion.

**As with all the Supreme Court cases, the cases in this lesson are very complex. Students are not expected to have a firm grasp of all the legalities. The goal is for them to gain skills in interpreting primary source material and to consider the issues that relate to how the Constitution is applied in practical cases.**

**Case #1 *Santa Fe Independent School District v. Doe* (2000)**

**Case name:** *Santa Fe Independent School District v. Doe*

**Year:** 2000

**Vote:** 6–3 decision for Doe

**Issue at stake:** Do public schools have the right to sanction prayer at public school events?

**Case summary:** Note: students are not required to submit a case summary; it is included here only to help you better understand the student’s answers. At a Santa Fe high school, a school policy allowed a student elected “chaplain” of the student council to read prayers over the public-address system prior to varsity home football games. Certain students and alumni challenged this practice in U.S. District Court, arguing that it violated the antiestablishment clause of the 1st Amendment, which prohibits Congress (and state governments via the 14th Amendment) from establishing a religion. While the case was pending, the school changed its policy to hold student elections to determine whether there should be prayers, invocations, or other messages before these games and, if yes, which student would make the prayers, invocations, or other messages. After these changes were made, the district court ruled that the school could proceed with the invocations, provided that they were nonsectarian and non-proselytizing. After the district court’s ruling, the school removed the word “prayer” from its new policy, and the students elected to have pregame invocations. The case was appealed, and the U.S. Circuit Court overruled the district court, holding that the policy allowing for pregame invocations violated the antiestablishment clause of the 1st Amendment. The case then went to the U.S. Supreme Court. Before the Court, the students and alumni who were challenging the invocations argued that being forced to listen to the invocations at public school events on school property and over school-owned equipment was, in effect, allowing the state government, via the school, to endorse religion. The school argued that, because it was students making

the invocations, and not school personnel, the invocations were private student speech, not public speech, and thus, the antiestablishment clause did not apply.

**Name of justice writing for the majority opinion: Justice John Paul Stevens**

When writing the final opinion for the majority, how does the justice address or refute claims of the other side? Justice Stevens stated that, based on previous invocations at the school, the fact that the term “invocation” usually denotes an appeal to the divine and the fact that the invocations were meant to “solemnize” the games, the invocations under the new school policy would likely be of a religious nature. Justice Stevens then stated that, because this was a government-sponsored (i.e., public) school, “the delivery of a message such as the invocation here on school property, at school-sponsored events, over the school’s public-address system, by a speaker representing the student body, under the supervision of school faculty” would constitute public speech of a religious nature and were prohibited under the antiestablishment clause of the 1st Amendment.

**Name of justice writing for those dissenting: Chief Justice William H. Rehnquist**

When writing the final opinion for those dissenting, how does the justice address or refute claims of the other side? Justice Rehnquist first noted a “disturbing” tone in the majority opinion that showed “hostility to all things religious in public life.” He then turned to the fact that, as the invocations under the new school policy had not taken place yet, the majority had no way to know whether the invocations would be of a religious nature. He further argued that, just because the school policy “tolerated” a student making religious statements before games, it did not *require* them to do so. The choice of whether to make the pregame statement religious in nature, according to Rehnquist, was the student’s choice, and, therefore, was private student speech, so the policy did not run afoul of the antiestablishment clause. Students may note that Rehnquist’s statement regarding hostility to religion in “public life” actually supports the majority opinion that the invocations were not “private” student speech, as the school district had claimed.

**Case #2 *Bush v. Gore* (2000)**

**Case name: *Bush v. Gore***

**Year: 2000**

**Vote: 7–2 decision for Bush**

**Issue at stake: Was it unconstitutional for the Florida Supreme Court to seek a manual recount of election ballots?**

**Case summary:** Note: students are not required to submit a case summary; it is included here only to help you better understand the student’s answers. During the November 7, 2000 presidential election between Democrat Al Gore and Republican George W. Bush, the vote in the state of Florida was decided in favor of Bush by about 2,000 votes. Under Florida law, the narrowness of the margin of victory for Bush triggered an automatic recount of the votes

by machine. When this process was completed, Bush was again declared the winner, but by a narrower margin. However, it was discovered during the machine recount that, in various counties, there were many thousands of ballots cast via the “punch card” method that had not been counted because they were not cleanly punched through (“undervotes”). Gore sought to have these undervotes manually recounted but when the manual recount could not be completed by the one-week deadline, Florida certified Bush as the winner of Florida’s 25 electoral votes. Gore then invoked a Florida election statute that allowed an election to be contested if there was a “rejection of a number of legal votes sufficient to change or place in doubt the result of the election.” The Florida district court denied Gore’s challenge, but the Florida Supreme Court reversed the ruling, saying that in Miami-Dade County alone, there were approximately 9,000 undervotes, and there were certain to be a number of “legal” votes that could change or cast doubt on the election results. In response to the Florida Supreme Court ruling, Bush sought an emergency stay of this ruling from the U.S. Supreme Court, which agreed to hear the case immediately (the opinion issued by the U.S. Supreme Court in the “emergency stay” phase of the case is what is commonly referred to as *Bush v. Gore*). Bush based his claim for a stay on the grounds that the manual recount procedures would vary from county to county, and even within a single county, and that the Florida Supreme Court’s holding that the “intent of the voter” standard required a manual recount created, in effect, a new election law *after* an election had taken place. The U.S. Supreme Court voted in Bush’s favor.

**Name of justice writing for the majority opinion:** Chief Justice Rehnquist

When writing the final opinion for the majority, how does the justice address or refute claims of the other side? Chief Justice Rehnquist argued that manually recounting the undervotes would violate the equal protection clause of the 14th Amendment because different standards would be applied from county to county, and even within a single county, thereby treating individual’s votes unequally. Likewise, Rehnquist argued, the Florida legislature had created election laws that were in place on the day of the election, and any laws created *after* the election took place were not constitutional and could be overruled by the Court. According to Rehnquist, by holding that a manual recount was required to determine voter intent, and thus, what a “legal” vote was under Florida’s election statutes, the Florida Supreme Court was unconstitutionally creating new election law. Finally, Rehnquist argued that there was no way that Florida could perform a state-wide manual recount, with its attendant legal challenges, before the date the presidential electors cast their votes.

**Name of justice writing for those dissenting:** Justices Ginsburg and Stevens

When writing the final opinion for those dissenting, how does the justice address or refute claims of the other side? The dissenting justices argued that the interpretation of the “voter intent” standard set forth by the Florida Supreme Court (i.e., manual recounts) did not rise to the level of a new law that would violate the Constitution, but rather was

a necessary judicial interpretation of state law, given the lack of a specific guidance and the nature of the punch card ballots. The dissent also argued that the equal protection concerns of the majority opinion were unfounded, because the Florida Supreme Court's ruling required that an impartial judge review all the manual recounts, nullifying any effects of the varying methods used by different counties.

**Case #3** *Grutter v. Bollinger* (2003)

**Case name:** *Grutter v. Bollinger*

**Year:** 2003

**Vote:** 5–4 decision for Bollinger

**Issue at stake:** Does factoring race into college admissions violate the 14th Amendment or the Civil Rights Act?

**Case summary:** Note: students are not required to submit a case summary; it is included here only to help you better understand the student's answers. The University of Michigan Law School had an admissions policy that considered the usual criteria (grades, LSAT scores, essays, extracurricular activities, etc.) but also considered “soft” factors, including diversity. The admissions policy did not specifically state that “diversity” meant racial diversity, but it did affirm the school's commitment to admitting qualified students of African American and Hispanic heritage. The school stated that its goal was to create a “critical mass” of minority students, so that no student of minority heritage would feel isolated and be forced to act as a spokesperson for their heritage. The admissions policy did not establish a specific quota or percentage of students of minority background that were to be admitted. Instead, the policy stated that “diversity” (racial or otherwise) was a “plus” factor that could strengthen an applicant's bid for admission in conjunction with all of an applicant's other qualifications. The petitioner was a white student with a strong academic record who was denied admission to the school. She sued the school, saying that the factoring of race into the admissions process violated her rights under the 14th Amendment and the Civil Rights Act.

**Name of justice writing for the majority opinion:** Justice Sandra Day O'Connor

When writing the final opinion for the majority, how does the justice address or refute claims of the other side? Justice O'Connor first noted that this case was almost identical to that in *Regents of Univ. of Cal. v. Bakke*, a case in which Justice Powell stated that diversity benefits education because, “[our] nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation,” and that diversity “encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.” Justice O'Connor and the majority adopted this position as the correct one with respect to factoring race into school admissions. Justice O'Connor held that the University of Michigan Law School's admissions

policy did not violate the 14th Amendment or the Civil Rights Act because it was “narrowly tailored” to further the school’s interest in promoting a diverse student body and only considered race as one of many factors in determining whether to accept an applicant for admission.

**Name of justice writing for those dissenting: Chief Justice Rehnquist (Justices Scalia, Kennedy, and Thomas also dissented separately)**

**When writing the final opinion for those dissenting, how does the justice address or refute claims of the other side? Justice Rehnquist argued that the admission policy’s stated goal of creating a “critical mass” of minority students and the statement that race was only one “plus” factor to be taken in along with all of a candidate’s other qualifications were a sham. According to Rehnquist, during the years that the policy had been in place, the number of minority students who applied and were accepted were nearly identical. According to Justice Rehnquist, this meant that the law school’s admissions policy was meant to achieve “racial balancing,” not the attainment of a diverse student body. Other dissenting justices noted that minority students would be aware that at least some of them were admitted with lower qualifications than other applicants, and that this would impart a feeling of inferiority on those students.**

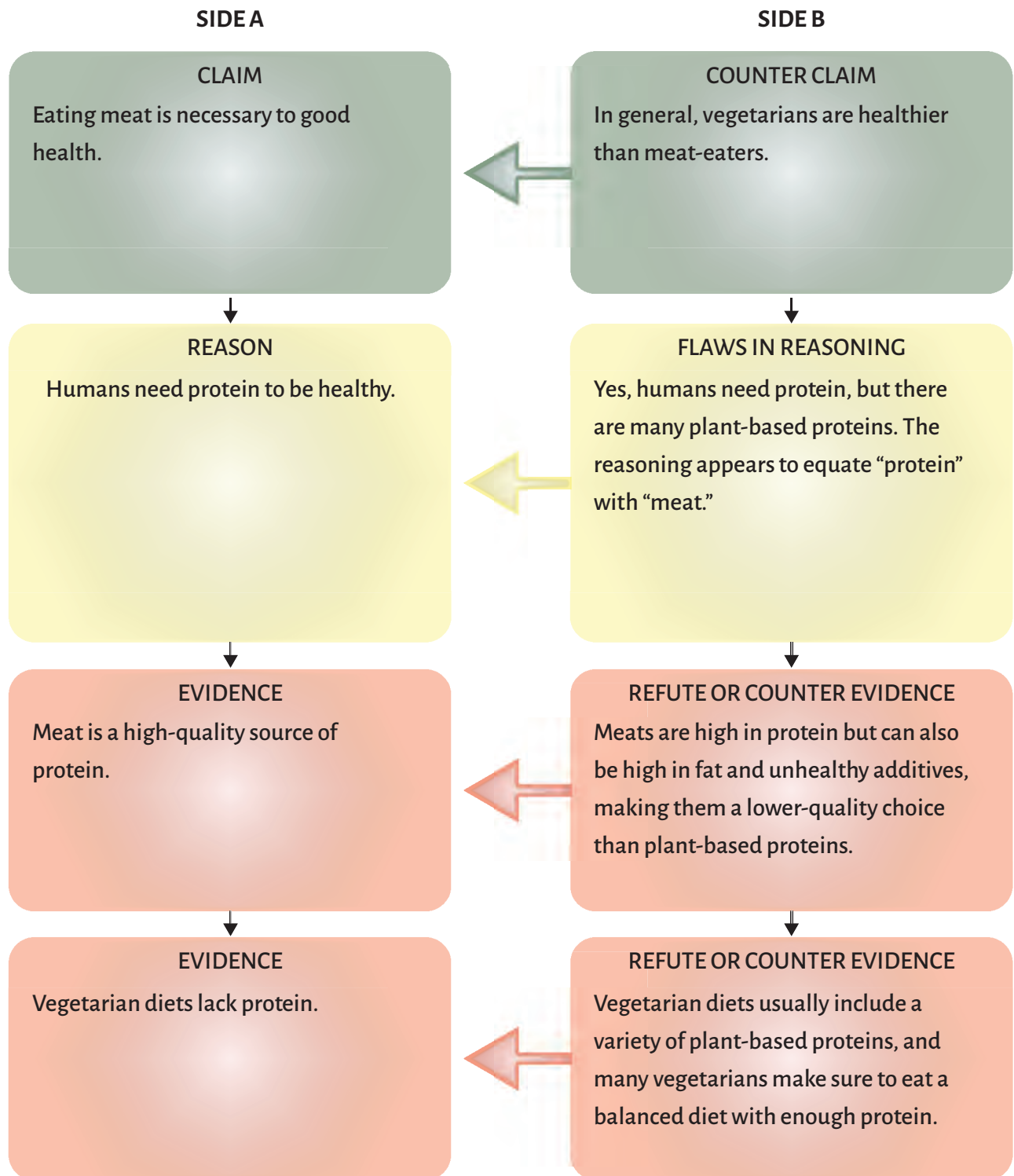
## Civic Debate

For this lesson, you will look at one of the issues that your state or local government is currently working on (see assignment #2 in lesson 22). Often people on one side of an issue make a claim, and opponents will counter or challenge the claim. When Side A states their reasoning, Side B will try to expose flaws in the reasoning. Side A will produce evidence and Side B will refute the evidence or produce evidence that runs counter to (disagrees with) the evidence. Through this back and forth process of civic debate, city councils and other governing boards as well as voters become more educated about an issue and better able to come to a decision. See an example on page 174.

## Civic Debate Assignments

1. Learn about one of the issues currently facing your state or local government. Educate yourself about the claims or concerns of both sides. Gather data about the claims, counter claims, reasoning, and evidence, and then complete “Refuting a Claim” (on page 164). You might have to gather more data as you work to fill in the blanks.

**In order to complete the form, “Refuting a Claim,” students will need to become very educated on an issue currently being debated at the state or local level. The sample form above will guide students, but many are likely to need help identifying the evidence and reasoning used to support or refute claims. It can help to have students do a mock debate to talk through both sides of the issue; this can help them understand how one side directly**

**DEBATE: REFUTING A CLAIM**



**addresses the claims or concerns of the other side. Look for the student to directly respond to the topics raised by Side A rather than simply presenting parallel but unrelated claims and evidence. It doesn't matter which side of the issue is identified as Side A or Side B.**

- After you have completed the form and looked carefully at both sides of the issue, explain your own thoughts on the issue. Which side do you most agree with and why? Give a clear, thoughtful, well-reasoned response.

**After going through the process of identifying the claims and evidence on both sides of the issues, students are likely to have a firm opinion about which side they most agree with. Make sure the response includes an explanation of the reasoning behind the opinion.**

## Learning Checklist

Use this learning checklist to track how your skills are developing over time and identify skills that need more work.

SKILLS	Developing	Consistent	Competent	Notes
Locate primary source material				
Identify key aspects of a court case				
Provide evidence of how justices refute claims of the other side in writing their opinion				
Cite direct quotations in a relevant context				
Research the claims of citizens on both sides of a current issue				
Construct an argument refuting the claims, reasoning, and evidence of the opposition				
Formulate and express a well-reasoned opinion				