



AMERICAN CONSTITUTION SOCIETY (ACS)

SIXTH AMENDMENT LESSON PLAN

RIGHT TO COUNSEL

ELEMENTARY SCHOOL

Description: This unit was created to introduce students to the Constitution and the Sixth Amendment. The lesson also includes a section about the role of a defense attorney.

Time Needed: To complete the full lesson plan, you would likely need more than a full class period. Please extend or shorten, as needed.

Supplies Needed: This packet, handouts included in the packet, and for reference *Youth Justice in America* (CQ Press 2005).ⁱ

OVERVIEW OF LESSON PLAN

Part One: Overview of the Constitutional Structure.

Part Two The Importance of Law

Part Three Sixth Amendment - Right to Counsel.

Part I – Overview of the Constitutional Structure

Introduction

This is a class about the law and lawyers. We live in a system of laws. Laws that govern what we can and cannot do.

The most important law in all the land is the Constitution. The United States Constitution was the law that created the United States of America. It explains what the President can and cannot do, what the Congress can and cannot do and what judges can and cannot do. Even though it was written over two hundred years ago, it created a structure that we live by today. It is the law that the Supreme Court interprets. And it is a law argued by lawyers in the Supreme Court.

Basic Terminology

Let's make sure we all understand our constitutional structure.

Q: Can you name the three branches of government? [Solicit answers from the class and with each answer go over the relevant terminology.]

Executive Branch Terminology

Q. Who is the President?

A. Barack Obama.

Q. What does the President do?

A The President is the head of the Executive Branch of government. The President manages the federal government, and is responsible for making sure that the laws are enforced

and obeyed. The President also acts as the Commander in Chief of military forces.

Q. Where does it say that the head of the United States of America is the President?

A. The Constitution.

Legislative Branch Terminology

Q. What is Congress?

A. The elected representatives of the United States made up of the Senate (with 100 senators – two per state), and 435 Representatives in the House of Representatives (apportioned by population).

Q. What does Congress do?

A. Congress writes and passes all of the federal laws in the U.S. It is those laws that the President enforces.

Q. Where does it say that the elected leaders should be divided that way?

A. The Constitution.

Judicial Branch Terminology

Q. What are federal courts?

A. Federal courts are made up of judges who make decisions about the law.

Q. What do judges in courts do?

A. Judges interpret the law. Let's say Congress passes a law that says because of the bad economy certain farmers cannot grow wheat beyond a certain amount on their land. Let's say a farmer thinks that law passed by Congress is unfair. Who should decide? Does it make sense to have the people who wrote the law decide it was fair? No. Of course, they will say it is fair. How about the farmer? No. He will say it is unfair. Then who should decide? Independent judges.

Q . Where does it say that courts should interpret the law?

A. The Constitution.

Review

So, we know that the Constitution lays out the rules for the elected officials who write the laws, the government officials who enforce the laws and the judges who interpret the laws.

Part II: Importance of Law

Let's start talking about the importance of the law in general and constitutional law in particular.

Rules of the Class

What are the rules in this classroom? Everyone write down (or say out loud) a rule that is followed in this classroom. For example, "Listen to the speaker." "Raise your hand before talking." Etc.

These are the rules you understand in a classroom. They are not laws, but they are similar to the role laws play in society. We all agree to them. We all follow them. There is some punishment if you don't follow them.

Now, let's break up into groups of 4 or 5 [or however the class is easily divided]. We are going to ask you to come up with two rules as a group. First, what time should we do lunch? Second, how much homework we should get on a given night? [e.g., an hour, two hours, etc.] You will have five minutes to discuss what you think each rule should be and are required to come up with a group response for each rule. How you decide on the rules is up to you.

[After five minutes go through the rules of each group and write them on the blackboard]. You will notice many are the same, but some are different.

So now let's imagine we are going to combine all the groups, some of those rules might have to change.

For example, [repeat a few of the rules that do not match up – for instance, let's say that one group has a rule that everyone

eats lunch at 12 noon and another group, people eat lunch at 3:00 pm, and in yet another, people eat lunch at 10:00 am. Point out that these rules do not match up.]

[Ask how the students came up with the rules in each of their groups?]

If you were going to combine the groups, who thinks it might make sense to have rules laid out and agreed to – to avoid the situation in which you had different lunch times? And how would you go about fairly getting each of the classes involved?

Q: How would you go about coming up with rules?

Q: How did you compromise in your smaller group? [Go over the concept of compromise, including asking students to discuss examples of how they compromised.]

Q: How should we all come up with these two rules?

[Again, break the students into groups and give the students five minutes to discuss which method they want to use. Go over the student's answers and whether or not it is an answer discussed, go over the idea of using representation.]

One answer might be having each group send a representative (maybe the teacher) to meet and discuss what the rules would look like for the large group. In some way, that is what happened at the beginning of our country. After the revolutionary war, there were 13 separate States. Each State had its own set of rules, its own government, and its own leaders. But, as a new country – the United States of America – each of the 13 States had to figure out how to manage a larger country.

In simple terms, the Constitution is the agreed upon rules for the country. Now, to be clear, the Constitution doesn't contain all

the rules, but only the rules to structure the power and control of the country.

Principle of Representation

I want to talk about one principle of the Constitution – the idea of fair representation. Let's say that, of the 13 groups, half of them were the size of your groups, but four were much smaller. In fact, one of the groups had only two students. So even though there are 13 separate groups, the groups do not each have the same number of students. Should they all have the same amount of power in the organizing of the large group?

[Break up into three groups and have each of the groups discuss one of the three questions]

Q. Who thinks that even though there are many groups smaller than yours, those groups should have an equal share in terms of the rule?

Q. Who thinks that maybe there should be a compromise? How would you do it?

Q. How much power to decide the rules should each class have?

[Discuss the answer that each group came up with.]

Again, this was the problem that the original founders faced. Each of the 13 States were very different. Some were quite wealthy and powerful with lots of business and industry. Some were less wealthy and powerful. Some had lots of people, some had a lot less people and yet, there needed to be a compromise. There needed to be a compromise that balanced the power of who would make the rules in a fair way.

The answer is that the founding fathers designed a government that divides power. The Constitution established a Congress with two different types of representatives. It gives each State two Senators so that it has equal votes in the Senate. It gives each state a different number of representatives in proportion to the population of the State in the House of Representatives. That means that each State has a fair share of the power.

It also left power among the States. So even though the States gave up some power to this central authority, the Constitution also left the power that existed among the several States.

Part III: Right to Counsel

The Constitution, in the Bill of Rights, lists protections from the government – rights that cannot be taken away from citizens.

Q: Do you know what type of rights it protects?

For example, it protects the freedom of speech and religion. It protects the right to be free from unreasonable searches and seizures. It provides the right to a lawyer if you are accused of a crime.

**SIXTH AMENDMENT
UNITED STATES CONSTITUTION**

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, ... and to have the assistance of counsel for his defense.”

Today’s talk is about the law and lawyers. So let’s talk about the right to a lawyer.

Let’s now break up into several different groups and discuss the following:

Q: What does a lawyer do?

Q: When do you need a lawyer?

Q: What is a lawyer’s role?

Have a discussion with the class and you can include the following:

We are entitled to the **assistance of counsel**. This means we are provided a free lawyer to help defend our case.

[Below is just a brief list of some items that a defense lawyer does.]

Explain duty. A defense lawyer will tell her client that she works for him or her and represents his/her interests. Her duty is only to her client.

Confidential. The lawyer will also tell the client that everything s/he tells her remains confidential, that she is forbidden to share anything she learns about the case with other people, and that s/he can tell her anything without fearing that she will tell other people.

Investigation. A lawyer has a duty to investigate all of the facts in the case.

Legal Options. A lawyer also has the duty of advising her client of all of the legal options. For example, if the client were accused of criminal offense (such as murder, etc.), the client could go to trial, the client could plead guilty in the hopes of a lighter sentence, or the client might be eligible to enter a diversion program where s/he would be required to complete some sort of alternative punishment.

Representation. Finally, lawyers represent their client at trial or in sentencing.

Review: WHY DO WE GET LAWYERS

Because lawyers can help a person accused of a crime.

Q. So why do we get a lawyer to help us?

A. The Constitution!

We get lawyers because the US Constitution guarantees the “right to counsel.”

Quick Facts – Constitutional Trivia

Q. Does anyone know where the Constitution was written?

A. Philadelphia, Pennsylvania.

Q. Does anyone know how long it took to write?

A. About two months.

Q. How many of the people who signed the Constitution later went on to be President of the United States?

A. Two. George Washington and James Madison.

Q. Can you name another famous person who signed the Constitution?

A. Benjamin Franklin / Alexander Hamilton.

ⁱ Written by Andrew Guthrie Ferguson, Assistant Professor, UDC David A. Clarke School of Law. This lesson plan was written specifically to be used in conjunction with *Youth Justice in America* (CQ Press 2005) because much of the lesson is protected by the *Youth Justice in America* copyright. Please do not distribute without permission.