

ACS Constitution in the Classroom
Separation of Powers Lesson
Elementary School
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Overview and Introduction:

This lesson is designed to provide elementary-school students with basic information about, and hand-on experience with, the separation of powers. In particular, this lesson aims to introduce students to the basic functions of our three branches of government and the basic tools that each branch can use to check the others; and to engage students in real-life exercises related to the core separation-of-powers principles.

This topic is (obviously) quite complicated. Law students typically spend weeks studying and wrangling with it in an introductory Constitutional Law course (and much more in advanced courses). Members of Congress, Executive officials, and attorneys debate it in one form or another every single day. And scholars continue to discover and explore new nooks and crannies in the doctrine, even over 200 years after the ratification of our Constitution. Still, with all this work on the separation of powers, we haven't figured out how to measure its precise metes and bounds. (It sometimes seems like the more we learn about it, the less we know.) And amazingly, even with over 200 years of experience, new, important, unsettled, and hotly contested issues involving the separation of powers arise regularly.

All this is to say that the separation of powers is a uniquely challenging topic to present to an elementary-school class, with students with a shorter attention span and less formal education on the topic, and within a mere 45- to 50-minute period. This means that our presentations must be simple, interactive, engaging, and relevant to the students' daily lives; and our objectives and goals must be appropriate and modest.

This lesson aims to guide elementary students through the stages of Bloom's Taxonomy — or at least as many stages as we might reasonably achieve in a brief, single session. (If you're not familiar with Bloom's Taxonomy, you can readily find excellent summaries and resources online.) In short, this means that the lesson aims to guide students through *remembering*, *understanding*, *applying*, *analyzing*, *evaluating*, and *creating* — in that order — based on the material. While you may not be able to take students through each of these stages in your brief time with them, you should be able to get through the first three stages, and provide them with open-ended challenges and questions to *analyze*, *evaluate*, and *create* outside of class.

The activities and exercises below, and the times assigned to them, are a suggestive guide, and not a rigid agenda. You should adjust them to your own classroom, your own students, and your own teaching style. But one word of caution: Try to avoid lecturing. Given the complexity of the material, there is a strong, built-in incentive to use a lecture format in order to deliver the material quickly and efficiently. But that format will not likely resonate with this audience. Instead, try to use questions to engage the students and gently guide them to the material you wish to

deliver. (A good measure of student engagement is the amount of time *you* talk in comparison to the amount of time *they* talk: they should talk more than you.)

Above all: Have fun! You'll create a more memorable experience for your students if you and your students enjoy it. And the more memorable the experience, the more they'll remember of the experience—and the separation-of-powers principles that you share with them.

Objectives:

This lesson has four principal objectives:

1. To introduce students to the basic separation-of-powers and checks-and-balances *structure* in the United States Constitution.
2. To introduce students to the principal *reasons* for the separation of powers and checks and balances in our Constitution.
3. To explore and experience how separation-of-powers and checks-and-balances principles apply in students' daily lives.
4. To examine how the separation of powers and checks and balances operate in an actual policy area.

Take-Aways:

By the end of the lesson, students should be able to do the following:

1. Explain in plain language the basic and principal functions of each branch of government.
2. Explain in plain language the basic and principal ways that the branches can check each other.
3. Explain in plain language why the separation of powers and checks and balances are important in our democracy.
4. Apply separation-of-power and checks-and-balances principles to everyday issues, including issues in students' daily lives and issues in public policy.

Materials:

1. Chalkboard, white board, or flip chart—something to write on that all students can see.
2. Chalk or markers

3. Red, white, and blue cards for each student in the class. (For Exercise 3)
4. Printed Worksheet 1 and 2
5. Pocket Constitutions provided by ACS

Introduction (3 to 5 minutes):

- I. Introduce yourself and provide some (brief) background on your professional experience.
- II. Say briefly why you are teaching today: to share some information about our Constitution and how it works.
- III. Ask students briefly about their own experiences with the law or the Constitution, e.g.:
 - A. Raise your hand if you know a lawyer. Ask one or more of the students: Who? How did you meet her or him? What does she or he do?
 - B. Who knows what the Constitution is? Who can tell me a fact about the Constitution? Who can tell me something that is in the Constitution?
- IV. State briefly that the lesson today will introduce students to the three branches of government, what they do, and how they work together.

Exercise 1: Basic Separation of Powers (20 minutes):

This Exercise is designed to review basic separation-of-powers and checks-and-balances principles. You may need to adjust the exercise slightly (and say more yourself, for example), depending on how much your students already know. (If your students know nothing about the structure of our government, you may wish to start with one of the exercises below, and work backward to this exercise.) This Exercise goes to *remembering* and *understanding* in Bloom's Taxonomy.

Option 1: Large-Class Discussion

- I. Ask the class if they can name a branch of government. Write the three branches across the top of the chalkboard, white-board, or flip-chart, and draw lines to create three columns.

- II. For each branch—legislative (Congress); executive (the president); judicial (the courts)—ask the students what they do? List one, two, or three core functions of each branch in the column for that branch, and ask a student to explain what each function means.
- III. For each branch, ask the students how they can check the other branches. Draw arrows from column to column to represent these checks. Ask a student to explain what each check means and how it works.
- IV. Ask the class why it's important to have three branches of government, with different jobs, and with different ways to check each other. (You can use a think-pair-share format for this question, if appropriate. This requires each student individually to think about her or his answer; to find a partner; and to share her or his answer with a partner.) Answer: This keeps power from concentrating in the hands of just one person or a few, and thus avoid tyranny.

Option 2: Small Group Work

- I. Ask the whole class to identify the three branches of government. Write these on the chalkboard, white-board, or flip-chart, as above.
- II. Divide the class into three groups. (Use natural divisions in the classroom, or ask students to count off (one, two, three) to set-up the groups.) Assign one branch of government to each group.
- V. Ask each group to identify one, two, or three core functions of their assigned branch of government, and one, two, or three ways that their branch can check one or more of the other branches of government.
- VI. Ask each group to report out to the entire class. Record the responses, as above, on the chalkboard, white-board, or flip-chart.
- VII. Ask the entire class why it's important to have three branches of government, with different jobs, and with different ways to check each other. (You can use a think-pair-share format for this question, if appropriate. This requires each student individually to think about her or his answer; to find a partner; and to share her or his answer with a partner.) Answer: This keeps power from concentrating in the hands of just one person or a few, and thus avoid tyranny.

Exercise 2: Application of Separation of Powers in the School (20-25 minutes)

This Exercise aims to apply the basic separation-of-powers and checks-and-balances principles to a setting that may be within your students' daily experiences. This Exercise goes to *understanding, applying, analyzing*, and even *evaluating* in Bloom's Taxonomy.

I. Read the following scenario to your class:

Carlos, a fourth-grade student at your school, accuses Jasper, a fifth-grade student, of bullying him on the playground. In particular, Carlos says that Jasper teased him because Carlos is Hispanic, and made fun of the way that he looks and the way that he and his family talk. Carlos says that Jasper told him to “go back to Mexico, where he belongs” and to “get out of my country.” Carlos says that Jasper persuaded other fifth-grade students to tease him, too.

II. Ask your students the following questions, and record their answers on the chalkboard, white-board, or flip-chart.

- A. Do you think Jasper violated a rule of your school? What is the rule? How did Jasper violate it?
- B. Who do you think made the rule? (This is the “legislative branch” of the school. Record the answer on, under, or around the column for the legislative branch from the earlier exercise. It may help to use a different color chalk or marker.) (Depending on the answer, you may ask follow-ups to link this hypothetical to the separation of powers. For example, you may ask, “Why do you think this person (as opposed to someone else) made the rule?” This kind of question could prompt the students to think “institutionally” about who gets to make rules, and why. In this case, the principal likely made the rule – and not, for example, individual teachers. That’s because it’s important to have a *uniform* school rule on bullying, as opposed to class-by-class rules, especially on the playground, where different classes likely mix.)
- C. Who should Carlos report to? (This is likely the “executive branch” of the school, which enforces the rule. As above, record this answer on or near the column for the executive branch from the earlier exercise.) (As above, you may wish to ask follow-ups to tease out the separation-of-powers analogy.)
- D. What if Jasper denies bullying Carlos, and there are no witnesses who are willing to support Carlos: Who decides whether Jasper *actually* bullied Carlos, whether Jasper’s actions violated the school rule, and, if so, what punishment is appropriate? (This is the “judicial branch” of the school. Again, record the answer on or near the judicial branch from the earlier exercise.) (As above, you may wish to ask follow-ups to tease out the separation-of-powers analogy.)

III. Ask your students (as a group) how the lawmaking, law-execution, and judicial functions in this scenario line-up against the separation-of-powers model that you earlier drew on the board. In particular, ask if those functions within the school line up perfectly against the three branches of government. If so, ask students about the

functions of each “branch” within the school, and the checks and balances that they can exert over each other, and, more generally, ask about and discuss the benefits and drawbacks of separating functions within the school.

- IV. It is more likely that your students’ answers to the above questions do not line up perfectly with the three-part separation-of-powers picture from the earlier exercise. (That’s because any given school official (say, the principal) likely plays more than one role in establishing, executing, and interpreting the school rules.) Ask your students if this is a problem. Why or why not? If it is a problem, how would you fix it? Conduct one of the following exercises:

Option 1: Large-Class Discussion

Facilitate a discussion with the entire class about how to assign roles and functions to different offices within the school in order to divide powers in a way that better aligns with the separation-of-powers model from the first exercise. Discuss with your students: What are the benefits and drawbacks of reassigning functions to align with separation-of-powers and checks-and-balances principles?

Option 2: Small-Group Work

Divide the class into three small groups (or keep them in their groups from the earlier exercise), and assign each group to represent the legislative, executive, or judicial branch. Ask each group to identify offices within the school that might align with their assigned function. Ask each group to identify the functions of the office as they relate to the anti-bullying rule, and the checks and balances that the office ought to be able to exert over other offices in the checks-and-balances system within the school. Discuss with your students: What are the benefits and drawbacks of reassigning functions to align with separation-of-powers and checks-and-balances principles?

Exercise 3: Application of Separation of Powers in Public Policy (20-25 minutes)

This Exercise is designed to apply separation-of-powers and checks-and-balances principles to actual public policy. It goes to *applying*, *analyzing*, and even *evaluating* in Bloom’s Taxonomy.

- I. Read the following scenario to your class:

You may have heard that Donald Trump, when he was a candidate for the presidency, promised to prohibit certain people from coming to the United States. You may have also heard that President Trump (after he became president) ordered that citizens of seven countries cannot enter the United States. In other words, the president banned entry into the United States by citizens of seven other countries. Without the order, individuals from these countries would qualify to come to the United States as visitors, students, or workers. [You may wish to ask if any of your students has heard about this, and whether they would be willing to summarize it for the rest of the class.]

- II. Distribute the cards, so that each student has one red card, one white card, and one blue card. Tell the students that the red card represents the legislative branch (Congress); the white card represents the executive branch (the president); and the blue card represents the judiciary (the courts).
- III. In a large group, ask your students the following questions, and instruct them to hold up the card that represents their answer to each question (or at least questions A through C and E). (You might instruct students to answer these questions in small groups or in a think-pair-share exercise. But given time constraints, this will probably work best in a large group discussion.)
- A. Which branch of government should make law regarding immigration from other countries? (Answer: the legislative branch.) Ask students to explain their choice or choices. Refer to your previous separation-of-power diagram as a heuristic.
- B. Which branch of government should enforce the law regarding immigration from other countries? (Answer: the executive branch.) Again, ask students to explain their choice or choices, and refer to the diagram on the board.
- C. If a person is harmed by immigration law or the enforcement of immigration law (for example, if a person or their family member is banned from entry into the United States), which branch of government should determine whether the law or its enforcement is valid? (Answer: the judiciary.) Again, ask students to explain their choice or choices, and refer to the diagram on the board.
- D. When President Trump issued the travel restrictions, did he satisfy the separation of powers? Why, or why not? What additional information would you like to know in order to answer the question. (On background: In the actual case—now before the Supreme Court—Congress gave some authority to the President to restrict entry into the United States temporarily and under certain circumstances. But it also put some restrictions on the President’s exercise of this authority. The statutory language, from the Immigration and Naturalization Act, are attached to this lesson plan for your information (but probably not for distribution to the students, unless you think your students can read and understand them). In addition, the President has some inherent constitutional authority to protect the nation in an emergency and to conduct foreign affairs and international relations.)
- E. If you say that President Trump violated the separation of powers, what can be done about it? Hold up a card to indicate which other branch might help. (Possible answer 1: Congress can enact law that expressly prohibits the president from doing this, or withhold funding for it (or use its oversight or

confirmation tools). Possible answer 2: Congress can enact that expressly permits the president to do this. Possible answer 3: Sue the president in court to stop the policy.) How do these check the President? (In discussing possibilities, refer to your separation-of-powers diagram, already on the board, as a heuristic.)

Worksheet 2 Activity (5 minutes)

Pass out the pocket constitutions and Worksheet 2. Have the students fill in the blanks and answer the questions. Be prepared to discuss their responses to the questions when they have finished.

Answer Key:

- A. Executive (President is also correct)
- B. Judicial Branch
 - 1. The Chief Justice of the Supreme Court
 - 2. This is very open (eg. Presidential veto, judiciary can declare laws unconstitutional, legislative impeachment power).
 - 3. The Legislative Branch.

Closing (5 minutes)

Ask your students to write down three things that they learned today. Ask for volunteers to share their responses aloud, with the entire class, as time permits. Remind the students that the best way to keep our constitutional values strong is to participate in our democracy through voting. If they want to learn more about voting in their state they can visit our website <https://acslaw.org/Pre-RegistertoVoteNow>. Thank your students and the teacher.

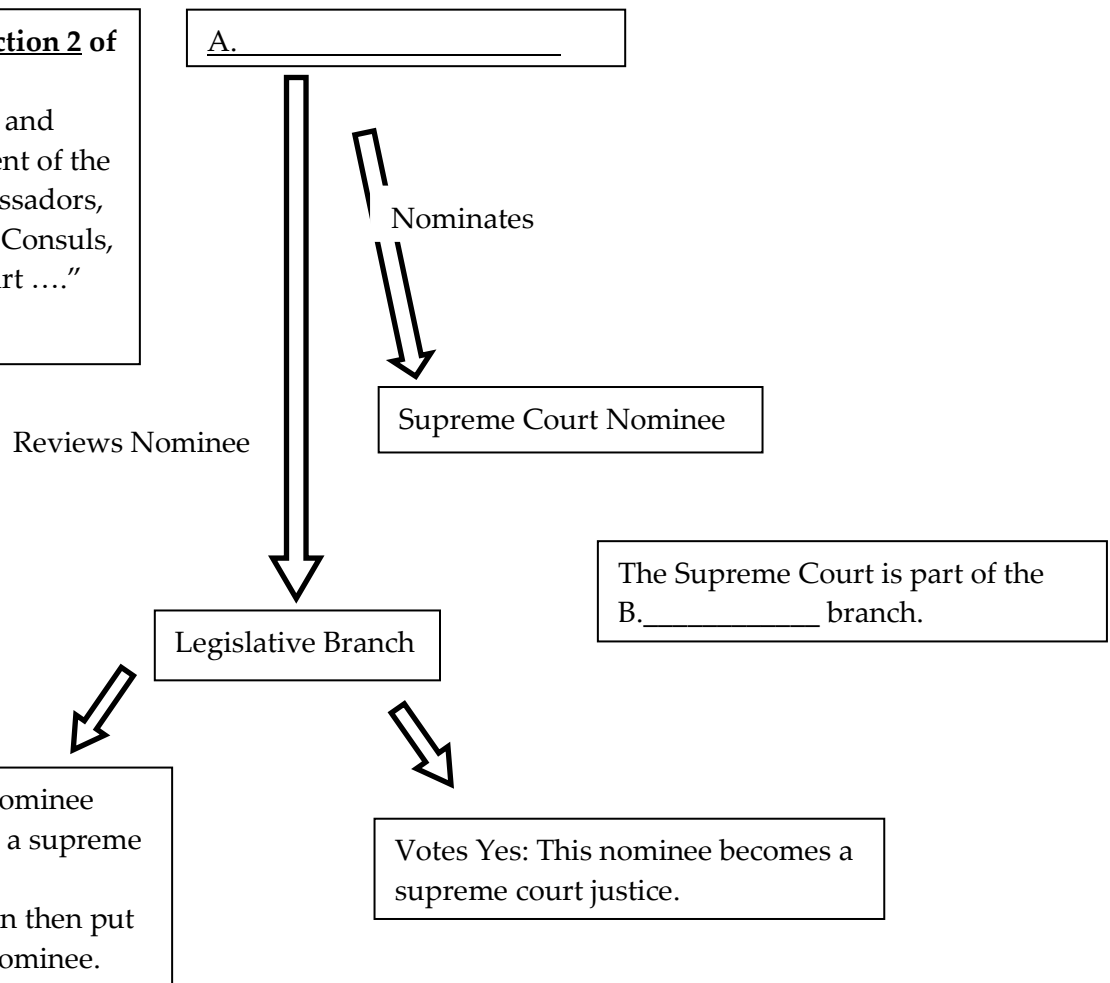
Work Sheet 2

Fairness in Sharing Power

The three branches of government are very connected and one example of this is the judicial nomination process. Use your pocket constitution to fill in the blanks and answer the questions below.

Hint: Find in Article II Section 2 of your pocket constitution:

“... shall nominate, and by and with the Advice and Consent of the Senate shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court”



Constitutional POINTS Questions:

1. Who has the power to preside over the case when a President is impeached? (Hint: Find in Article I Section 3)
2. What is another example of 'checks and balances'?
3. Who has the power to 'ordain and establish' new courts? (Hint: Find in Article III Section 1)