

**AMERICAN CONSTITUTION SOCIETY (ACS)
CONSTITUTION IN THE CLASSROOM
THE RIGHT TO VOTE**

HIGH SCHOOL CURRICULUM — SPRING 2019

Lesson Plan Overview

The purpose of this lesson plan is to provide high school students with an enhanced understanding of enfranchisement, or the right to vote, as protected by the Constitution of the United States and their respective state constitution. Topics include what it means to vote, the history of voting rights in the United States, which types of votes are constitutionally protected, certain efforts to restrict people's right to vote, and how to make voting easier.

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Structure of American Government

The Three Branches of Government

In the American system of government, the power is bestowed on three branches of government by the people, and embodied in the Constitution of the United States and the respective states. There are three branches: the Legislative, the Executive, and the Judicial. Each of the three holds certain responsibilities to the public and has certain powers and authority.

In this lesson we will focus our discussion on the U.S. Constitution. The Constitution sets up the government of the United States and guarantees certain freedoms. The first three Articles of the Constitution establish the powers of the three branches of government.

Start the discussion by asking the students what the Constitution is, what is its purpose?

- It designs the American system of government
- It creates 3 branches of government (Executive, Judicial, and Legislative)
- It gives each branch certain responsibilities to the people and certain powers and authority.

There are also amendments to the Constitution which guarantee the people certain rights and freedoms. Can you name some of those amendments, or any of the rights protected by those amendments?

1. Freedom of Speech, Press, Religion (Establishment and Exercise), Assembly.
2. Right to bear arms.
3. Freedom from quartering soldiers.
4. Right to be free from unreasonable searches and seizures of their person, papers, and homes. The warrant requirement.
5. Right against self-incrimination.
6. Right to a speedy trial by an impartial jury of your peers. Assistance of counsel.
7. Right to a jury trial in certain civil cases.
8. Freedom from cruel and unusual punishment.

Other amendments: XIII (Involuntary Servitude), XIV (Due Process of Law), XV (No discrimination in voting based on race, color and previous servitude), XIX (Woman's Suffrage), XVII (Popular Election of Senators).

Voting Rights in the Constitution (30 minutes)

Of all the rights we just discussed, the right to vote is perhaps among the most solemn and important. Ironically, the U.S. Constitution does not explicitly guarantee the right to vote. The right to vote stems from the states' determination of the qualifications of voters, only limited by amendments to the U.S. Constitution and the Guarantee Clause (Art. 4, Clause 1, "The United States shall guarantee to every State in this Union a Republican Form of Government,[...]").

The United States is commonly referred to as a democracy, but the appropriate term is a *democratic republic*. In the U.S., the people do not directly vote on laws, court decisions, or how the President faithfully executes laws. The people vote in people to hold office and write laws, execute laws, and appoint judges to render decisions in court cases.

When the Constitution was being written in 1787, there were differing theories on how the government should run, and these theories were drawn from historical precedent. In a monarchy, a king or queen rules absolutely as a lawmaker, executive, and judge. In an aristocracy, elites come together and make rules and law and appoint from within their caucus a person to execute the laws. In a pure democracy, the people would simply decide what to do popularly. The Founders believed that each theory carried inherent risks for tyranny, and so those theories were encapsulated in the three branches, each with checks on the power of the others.

For many years in the United States, certain people were denied the right to vote. It was only after amendments to the Constitutions (ones we just discussed) that they were granted that right.

Ask the students if they can think of groups who weren't guaranteed the right at certain points in our country's history?

In the United States, the process of voting is the formal action of a binding contract amongst all Americans to choose amongst us those that will bring our Constitutional experiment to life. It is a serious, essential, and unprecedented governmental design. It started here, and we all have the duty to see that we act on our right to participate in *self-government*.

Exercise: Voting Rights History

Ask the students to self-segregate into four, evenly numbered groups. Pass out one color card to each student and each self-segregated group should receive the same color. Explain that there are four different color cards: red, white, blue, and green. Red cards stand for white, landowning, men. White cards stand for all men, regardless of race, color, or land holdings. Blue cards stand for women. Green cards stand for people who are 18 years old.

Now, let's pretend that your school says you can have any musical performer come to class for a concert, but you all had to agree on the artist and vote on it. Let's put some options on the board (let the students name a few different artists and number each of them)

- Explain that, when the Constitution was written, only white landowning men could vote. Go back to the list of artists and only allow students with red cards to vote (for expediency, can allow students to raise hands this time).
- Explain that in 1870, after the Civil War, the 15th Amendment was passed protecting the right to vote for all men, regardless of race or color. Repeat the voting exercise allowing red and white cardholders to vote.
- Explain that in 1920, after a long fight, the 19th Amendment was passed protecting the right to vote for women. Repeat the voting exercise allowing red, white, and blue cardholders to vote.
- Explain that in 1971, the 26th Amendment was passed protecting the right to vote for anyone who was 18 years old or older could vote. Repeat the voting exercise allowing red, white, blue, and green cardholders to vote.

Did the results change as more people were allowed to vote? Why do you think that is?

Exercise: Who Can You Vote For

The Constitution only protects the right to vote in certain elections, but not all elections. First, let's explore some examples of things you can vote for that may or may not be protected by the Constitution. [Draw two columns on the board: "Guaranteed/Protected by the Constitution" and "Not Guaranteed/Protected by the Constitution"]. Go around the room and ask students which column the following should be in (encourage them to guess if they don't know):

NOTE: these are provided in appropriate columns, but mix it up for the class! Also, feel free to supplement this list with your own ideas.

| Guaranteed/Protected by the Constitution | NOT Guaranteed/Protected by the Constitution |
|--|---|
| <ul style="list-style-type: none"> • President of the United States • US Senators from your state • Congressional representatives from your state • Candidates for President | <ul style="list-style-type: none"> • President of Mexico • US Senators from another state • Congressional representatives from another state • Class president • Major League Baseball All-Stars • Supreme Court Justices • Laws |

Quick Lesson on Political Parties

The American System has typically featured two major political parties. The two major parties in the U.S. are the Democratic Party and the Republican Party.

The Democratic Party emerged in the late 1820s and 1830s with President Andrew Jackson as its original standard bearer. Throughout the last 200 years, the coalition supporting the Democratic Party has changed dramatically. Currently, the Democratic Party has control of the Presidency, with Barack Obama as the current office holder. Some significant Democratic Presidents have been Franklin D. Roosevelt, John F. Kennedy, and Lyndon B. Johnson. Some significant Democratic members of the Congress were Senators Edward M. Kennedy, Hubert H. Humphrey, and for less glamorous and heroic reasons, Richard Russell, Jr, and Speakers Sam Rayburn and Tip O'Neill. The Democratic Party today typically supports progressive civil rights issues, social liberalism, moderate to liberal economic policy, and the modern welfare state.

The Republican Party emerged in the late 1850s, with its first President being Abraham Lincoln. Like the Democratic Party, the “GOP” or “Grand Old Party” has seen significant changes in its governing philosophy and coalition. The GOP began as an anti-slavery party, supporting strong national policies. One might assume that today’s Democratic Party is more in line with the original Republican Party’s principles. Some significant successors to Abe Lincoln have been Theodore Roosevelt, Dwight Eisenhower, and Ronald Reagan. Some significant Republican members of the Congress were Senators Robert Dole, Robert Taft, Henry Cabot Lodge, Edward Brooke and Speakers Thomas B. Reed. The Republican Party today typically supports conservative governing principles: social conservatism, free trade, fiscal restraint, and a hawkish foreign policy.

Restrictions on Voting (15-20 minutes)

The Constitution leaves the power to determine qualifications for voting to the states. States have the power to determine who, when, and how people can vote for their government officials. Also remember, that these restrictions *must* always comply with the U.S. Constitutional amendments prohibiting discrimination in voting laws. In some states throughout this country’s history, some people have tried to control the outcome of elections by stopping certain people from voting, or by making their vote count less than other people.

Literacy Tests

After the Civil War, African Americans and newly freed slaves were granted the right to vote by operation of the 15th Amendment. Soon after though, states began passing laws which restricted those newly franchised Americans.

One way to limit the participation of voters in elections was through a literacy test. When a person would arrive to register to vote, or to cast their ballot in an election, an election warden would require that person to pass a literacy test. These were not always just a test of whether or not a person was literate, but also whether they could memorize long, complicated, and esoteric Constitutional or historical texts.

Do you think reciting the Declaration of Independence, the Preamble to the Constitution, or knowing all of the Vice Presidents of the United States should determine whether or not a person should be able to vote?

Poll Tax

Question, how many people here think that you should only be able to vote if you have \$100 in your wallet right now? What if you had \$100 in the bank? What if you were extraordinarily wealthy or poor, would that make you more or less qualified to decide on who should be making decisions regarding laws, policy, and perhaps even war?

When a state charges people money as a pre-condition for the right to vote, that is a poll tax. The federal government attacked the poll tax in three different ways. First, 24th Amendment was ratified in 1964 which prohibited the Congress and the states from passing poll tax laws. Then, in 1965 the President proposed and the Congress passed the Voting Rights Act of 1965, which – among many other things – directed the Department of Justice to see that the 24th Amendment was followed. Finally, the Supreme Court in 1966 declared that Virginia’s poll tax law was unconstitutional in a case called *Harper v. Virginia Board of Elections*. In the words of Justice William O. Douglas, “voter qualifications have no relation to wealth.”

Do you agree with Justice Douglas? Is there any conceivable reason why people should have to pay for the right to vote? Do people have to pay for the right to have a jury trial? Do people have to pay for the right to choose their own religion?

Prisoners Exercise

A small number of states prohibit a person convicted of a felony from voting. In Maine and Vermont, felons never lose their right to vote, even if they are serving time in jail. However, in some states, even if a person has served his time, he still cannot vote (might want to note this is changing in some places, such as Florida).

Do you believe felons should be allowed to vote after they are released from prison? What about while they are incarcerated? In many states if your classmate stole your cell phone, the value of your phone would lead to a felony larceny charge. Do you think a person should permanently lose their right to vote if they stole your cellphone?

Loyalty/Oath Exercise

Question should an avowed anarchist be allowed to vote? An anarchist is “a person who believes in, advocates, or promotes anarchism or anarchy; especially: one who uses violent means to overthrow the established order.” Should a person who actively and fervently wishes to engage in the forceful coup of the U.S. government be permitted to vote? Should a communist, or a person who believes in a centralized government controlling the majority of the nation’s economy be allow to participate in our representative democracy? Should a member of a separatist group or an individual advocating for a state or region of the country ceding from the United States be allowed to vote?

Voter ID

Recently, some states have started to require that a person has a valid identification card (like a driver’s license) in order to vote. States that have passed voter ID legislation argue that providing an ID prevents voter fraud, i.e. people voting more than once or voting in a precinct where they are not registered. A second argument proponents of voter ID laws make is that this requirement promotes public confidence in the election system itself. Do you think providing a picture ID deters corruption and increases the public’s faith our electoral system?

What group of people do you think this would keep from voting? Can you think of a good reason why this group shouldn't be allowed to vote? Think back to the voting exercise with the colored cards. Would it be fair if we asked you to provide identification before you could vote, why or why not? Could a valid identification requirement help prevent voter fraud?

What happens if you do not have one of these licenses or forms of identification? How many of you have a library card? Did you pay for that? Well, getting certain forms of identification requires a fee. Some states require \$25 or \$50 to get a driver's license, or some other form of picture identification. Does someone paying \$25 for a requirement to vote strike you as fair? Does it sound familiar?

Do you think it is reasonable to require a photo ID to board an airplane or to enter a skyscraper in (please use the name of the closest large city) for a business meeting? How are either of these routine activities different from voting? Are they? What other activities require a photo ID? Is the act of casting a ballot in local, state, or federal election akin to those activities?

Should the federal government establish a national ID that could be used in all elections? The idea of a national ID, instead of individual state Identification cards has been suggested for many years. What do you think about a national ID? Would it deter voter fraud and make the American people more secure in their voting system?

Campaign Finance

In 2010, the United States Supreme Court ruled that the corporations have the same rights as people when a company participates in the political process. The Court ruled that when a company uses money to argue for or against a political candidate they are engaging in protected political speech. As a result, any business or corporation has the same freedom of speech and participation rights you and I have in the political process. Do you agree with the Supreme Court? Should corporations be treated as people when it comes to participating in our political system?

If you do not think they should be treated as people, why not?

How to Make Voting Easier (15-20 minutes)

To encourage more people to vote, some legislators and organizations are trying to make voting easier.

Was it better when you all were able to vote or when only some of you were? We talked about how some people want to make voting harder. What if we wanted to make it easier? What could we do?

If the students are having trouble, offer the following prompts:

In some states, voting is on only one day. What if you have a lot to do that day? What if you need to travel on election day or are too old or sick to stand in line to vote? (more days/options to vote). 39 states and the District of Columbia currently offer pre-Election day options such as in-person early voting and all mail elections.

Some countries make their election day a day that everyone has off work or school. (make election day a national holiday). This idea is currently being proposed in legislation before Congress.

Some states make you register to vote at least 30 days before an election. Some people forget to do that on time or are too busy. (automatically register people to vote or same day registration). Fifteen states and the District of Columbia have already approved automatic voter registration (AVR). AVR is an innovative policy that streamlines the way Americans register to vote. AVR makes two simple, yet transformative, changes to the way our country has traditionally registered voters. First, AVR makes voter registration “opt-out” instead of “opt-in” —eligible citizens who interact with government agencies are registered to vote or have their existing registration information updated, unless they affirmatively decline. Again, the voter can opt-out; it is not compulsory registration. Second, those agencies transfer voter registration information electronically to election officials instead of using paper registration forms. These common-sense reforms increase registration rates, clean up the voter rolls, and save states money. Another option is same day registration or election day registration. Seventeen states plus the District of Columbia offer same day registration, which allows any qualified voter to register to vote and cast a ballot the same day.

Conclusion

Voting remains the most basic, and most important, method by which citizens can participate in democracy. It allows citizens to pick their representatives in government, who then decide, pass, and enforce laws which influence every aspect of life. The Constitution, the blueprint for America’s government, protects many rights, including the right to vote. In the beginning, only a small privileged section of the population was able to vote. Over the years, the right to vote has expanded from white, land-owning men to all adult citizens, regardless of race, gender, wealth or education. This was the result of various amendments and federal legislation passed by Congress. Furthermore, voting rights have also expanded the voting population, by allowing the voting public to vote directly for President and U.S. Senator. Despite the progress that has been made in protecting voting rights, there are still barriers placed to restrict voting, including voter ID laws and tough-to-reach polling locations. For many, the right to vote was given to them within the lifetime of themselves or their parents. The fact that so many have had their right to vote denied or



restricted only reinforces the importance of voting. It is the most fundamental right in a democracy, and many states and legislators are working to make that right more accessible to more Americans.

Special Note on Pre-registration for high school students: Some states allow 16 and 17-year-olds to pre-register to vote. That means you can register to vote EARLY. You will then be automatically registered when you turn 18 and can legally vote! To find out more, go to <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>

All students who are not currently eligible to vote should encourage their parents to vote in the 2019 and 2020 elections and should accompany their parents to the voting booths!