

Beyond a Reasonable Doubt

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Reach, Teach and Teach: “In one way or another, we must be accountable, and we must teach our children to be accountable, whether to some higher being or to some sense of civic-mindedness, or to simply doing the right thing by the right people.”

-Judge Glenda Hatchett

INTRODUCTION

As a young child, I believed that my mission in life was to defend everyone or everything that needed help. When my grandfather’s cats got into a fight over food, I’d take the weakest and put their food aside and guard them as they eat their “stew” as my grandfather called his cooked up mixture of meat market scraps.

A great effect on my sense of justice in life was watching *Perry Mason* with my grandparents. My younger years of settling disputes between my younger brothers and sister always concluded with the question of why they didn’t know better. As a clear thinking person who attempts to read and rationalize situations that question was usually first in my thoughts.

During my high school days, I questioned the punishment of the nuns and priests who doled out what I deemed “cruel and unusual punishment.” They of course weren’t, but at that time in my mind they were so bizarre. As an example, “beating the bricks” was a punishment for fighting another person. The pastor would make boys beat the side of a brick gym wall with their bare fists. The girls which usually included me would have to wash the convent steps one at a time with cotton cloths. Then, go back with clean rinse water and do the whole procedure again.

Once I had to report to church every Saturday for a month and tear out old, old church document books page by page for hours just because I rang the church steeple bell with a broom while cleaning the choir loft. Well, actually, I opened the doors which led to the church bell tower. Everyone in town heard the bell ringing. The pastor yelled (while I was running back down the steps) “That bell had not been rung in 30 years.” The fact that I could only hear muffled voices for hours was punishment enough, but alas, that wasn’t a good enough defense.

While in college, I spent a summer as a VISTA Volunteer (Volunteers in Service to America) at a Jobs Corps Center in Astoria, Oregon. Girls from all over the U. S. were given a second chance to complete high school and in some instances not go to juvenile detention facilities. We served as counselors to these girls and were responsible for

helping them by tutoring and showing them how to save their money, shopping expeditions (they received a \$100 stipend a month) and general girl talk. We served as models of what they could do with their lives.

By gaining the confidence of some, we were told some horrid stories of their lives which dumfounded me most of the time. I couldn't understand why or how they didn't know most of these things were wrong legally and/or ethically.

After graduating from college, my first teaching job was the beginning of desegregated schools in Louisiana. The school where I was first assigned had separate homerooms – one for each race (black/white). The feeling of injustice made me outspoken and I hated to go to work everyday. The rights of students were openly abused or nonexistent under a system of oppression. I rebelled by the only means I had at the time. I taught facts about history including all people that of course were not in the text book used in that school system. I of course was called down to the principal's office on a daily basis. I had to defend why I wasn't sticking to the lessons in the text. I deferred to the fact that the books were 7 years outdated and 200 years unjust. Needless to say, I only lasted two months before I left for the Midwest to live and teach in a large urban school system.

There I was faced with locker searches, dope-sniffing dogs in the hallways, girls' playing cards in the restrooms, and openly daring an adult to say anything to them. I was totally unprepared for the chaos and lack of work ethic. Students came to school, but as teachers, we could not force them to do class work if they refused. I found this out the hard way by writing up a student who came everyday, but put his head on his desk and slept. I was told that it was his right to do so and I could not force an education on him. I was totally bewildered and angry. So, for two months he came to class, nodded his head to acknowledge me, walked to his desk in the back of the room, and slept the entire school day. I felt, "Why awaken him if the system doesn't care?"

A day before holiday break in December, the class had a party... everyone was participating and he was in the left corner desk with his coat over his head as usual. I brought him a cup of punch, a small plate of cake and sandwiches, nuts, and mints. He looked up nodded and took the items inside the coat tent. The next day, he came in and walked over to my desk, which startled me, and put a little bright yellow pedestal clock on my desk and said, "Merry Christmas." I said "Thank You and Merry Christmas to you." He took his place and went to sleep. The students all laughed and asked him, "Why you didn't give her one of those 8 tracks your gang lifted from that derailed freight train last night?" He stared at all of them and the room became quiet. He sat down, covered his head and went to sleep. I thought of him during the holidays. I was determined to have a talk with the counselor, social worker and anyone to help him out. He did not return to school. I tried to find out what happened to him. But, all I was able to do was listen to stories students told about his homelessness and how school was a warm place to sleep and eat a hot meal during the week.

I kept that little clock for 11 years. After moving back to a southern state, somehow it was never recovered in shipping and packing of items. The student stories have remained with me for over 25 years now. I started teaching U. S. History with a special emphasis the amendments. It is utmost important for me to let people know clearly what rights they have as U.S. citizens. Students are especially in the position to be taught the avenues to seek for definitions and studying our individual rights and freedoms. That is why I have named my unit “Beyond a Reasonable Doubt.” I use it not just a phrase for a jury verdict...but, so every child will get a basic solid foundation of rights and responsibilities. So, each will be an informed citizen of the Unites States.

UNIT BACKGROUND

Law touches our lives from the day of our birth to the day we die from birth certificate to death certificate. Law forms the foundation of civilization and rests on the bedrock premises of justice and fairness. In the United States there is an added requirement for laws. In our country and other democracies, laws are made by the people or by representatives elected by people (Lipson).

This unit will attempt to examine legal issue in an analytical way. This approach helps students to understand just what the U.S. Constitution system of justice is all about how law should apply to everyone equally. In the Unite the States, representatives elected by the people make laws. To participate effectively, citizens should be educated about the issues of the day and the way the government works (Lipson).

One of the major goals of public education is to give the student information that will help him or her daily life, living as both young and as an adult. In today’s complicated world, an understanding of the function and place of the law is perhaps as important as any other subject of study. Court decisions and legislation bring almost daily changes to the law. Informed citizens do their best to remain abreast of changes in those laws that affect them and their families. Students will be encouraged to discuss questions outside of class with family, friend and other interested in the law (Lipson viii).

In the compilation of the unit I must say that I am not attempting to “re-invent the wheel.” I have drawn from various work cited in order to compile the material used.

With the brainstorming activities, suggestions, questions-and-answers, opinion questions, and case studies, this unit would not have been possible on my part to complete. The wealth of information gathered beforehand by various others such as educators, writers, attorneys and publishers, etc. served as an invaluable source of materials and information. I have read and used materials in a “pot-luck” style as if thrown into a large cauldron mixed up and then identified as my unit.

“Beyond a Reasonable Doubt . . .”

I used my knowledge of student behavior to construct lesson plans, which I hope will be enjoyable in the learning process. I have incorporated techniques of fun activities to keep students interested. An enjoyable lesson can also be a learning experience (Durrett).

Students’ Rights Go to Court

Before 1969, few people thought about students’ rights. Students studied the Constitution, but it wasn’t clear how exactly the Constitution applied to them. The Supreme Court first addressed the issue of student’s constitutional rights in 1969 *Tinker V. Des Moines* decision (Durrett 22). Six years later in 1975 *Gross V. Lopez* brought before the Supreme Court a student’s rights to due process (Durrett 23).

These landmark decisions dealing with freedom of speech and due process determined that students do have constitutional rights (Durrett 24).

Knowing Your Rights

There are many areas involving privacy rights for the students. Some of these aren’t likely to attract media attention or become court cases. Abuse of the rights, however, may greatly affect the student’s future. Students must know their rights so they can defend themselves against violations and protect their privacy. For example, they should be aware of the Family Educational Rights and Privacy Act (Durrett 43).

Educational Records

Congress passed the Family Educational Rights and Privacy act (FERPA) in 1974. FERPA makes educational records private. Educational records contain the student’s grade history and grade point average, SAT/GRE test scores, family income, parents’ names, and medical information. They may also include the teacher’s notes about the student’s behavior or learning problems. The student’s educational record begins when he or she first enters school. It is kept forever. The parents hold their child’s FERPA rights until the child is an “eligible student.” This happens when the child reaches 18 years of age or enters college. At that time the rights pass from parent to child. The parents no longer have rights to the child’s educational records (Durrett 43-44).

Schools can release information for research. They can also provide statistics that are not personally identifiable. A statement such as “Fifteen Girls Made A’s in History” could be released. Although information from all the girls’ records was used to compile the information, none of the girls can be identified by this information. It is not personally identifiable (Durrett 45).

FERPA allows only certain people access to educational records. These include the parents or eligible students and school officials with “legitimate educational interest” (Durrett 45) in the information. A school official has educational interest if he or she needs information to help the student in some way. This might understand a student’s disability. It could also be the need to control a behavior problem.

Keeping educational records private may not seem important. In the computer age however, vast amounts of information can be stored and searched. No one knows how one piece of information might be linked to another. And no one knows how the information might be used. As a result, all privacy rights need to be protected (Durrett 45).

You and the Law

Discussion questions and activities are designed to help the students better understand the law and legal process in the U.S. (Churchill v).

Throughout this unit, students will be given the opportunity to explain ways in which knowing the law may apply to them as individuals. Students will be allowed to respond from personal experiences or to make a value judgment (Churchill vi).

Students will be taught to reflect on the progress and the problems posed by the advantages in science, medicine, technology, and human needs. There have been dynamic changes in students’ rights. The rise in school violence and the social disorder has increased the challenge to preserve an orderly yet free society. The topic of students’ rights, privacy, and searches in school are more relevant than ever (Lipson 7).

To this measure the unit on protection and the rights of the “Due Process Clause” is an immediate need to students in middle and high school. By studying original materials, students are brought closer to the actual events and to the people who took part in them. This is a very dramatic way to teach history, similar to the case method of teaching law (Walch vii).

By using the case study method, students get the facts about a situation and then consider their own reactions to it in light of its historic outcome. Student pages from each case included a brief introduction, a carefully selected excerpt from a primary source document, and questions to guide students’ reading and reaction (Walch viii).

Using the case method, students get the facts, make the decisions, and then compare their decisions to the outcome of the case (Welch VII). In keeping with an issue-centered approach to social studies, students are encouraged to think about the issues and form their own opinions.

American Civil Liberties: The Rights of Students

In order to understand what your rights are as a public school student, you need to understand something about how our legal system works. As you know, the basic document that sets up our legal system is the United States Constitution. The Constitution explains how we elect the government of the United States, and it delegates the specific powers the government needs to run the country. These include the power to pass laws that are “necessary and proper” for carrying out the other powers. The government does not have the power to do anything that the Constitution does not permit it to do. Therefore, when you are thinking about your rights, a better question to ask than, “Do I have the right to do this?” is “Does the government have the right to stop me from doing this?” (Cary, Levine, and Price 1).

Although the government may not forbid you to do some things unless the Constitution says it can, the people who wrote the Constitution thought that certain rights are so important that they should be specifically guaranteed. Therefore, the writers added ten amendments to the Constitution which together are known as the Bill of Rights. (An amendment is an additional or alteration to a constitution or law.) The Bill of Rights lists the most important rights that the government may never deny to its citizens.

Four of the amendments that make up the Bill of Rights are particularly important for students. They are the 1st, 4th, 5th and 14th amendments. Students will hear about and discuss lawsuits that have been brought to either federal or state courts. In these lawsuits, the students have asked the courts to declare that certain actions by school officials are unconstitutional. In the federal court system, there are three levels of courts. The district courts are the trial courts that hear evidence and then reach a decision. If a party to a lawsuit does not like a decision of the district court, that person can then appeal to one of the thirteen United States Circuit Courts of Appeals, which hear appeals from several different districts. If a party does not like the decision of the Circuit Court of Appeals, that person can then ask the Supreme Court to decide. However, the Court agrees to decide only the most important cases (Cary, Levine, and Price 2).

In order to include more students in this curriculum, a schedule will be made to meet with other classes for forty-five minutes twice a week. Enrichment students will research a topic and then present it to two other classes. The specific topic will be introduced, hand-outs issued, and discussions will follow. Questions and answer sessions will be monitored by the teacher. Opinion surveys will be issued during the last five minutes of these pull-out classes. As an interdisciplinary class students will work with their math teachers (who have volunteered) to incorporate the surveys into a tabulation class. They will make a graph table for each opinion poll survey topic. Results will be compiled and placed in a survey notebook for future reference.

IMPLEMENTATION STRATEGIES

This unit is intended for use as a part of the social studies curriculum in an “Enrichment” classroom designed specifically for this unit. The lessons will focus on national objectives for government and history.

- The lessons will focus on the following National Objectives, Strands of Government and History.
- The students will demonstrate an understanding of political influences on historical issues and events.
- The students understand the foundation of representative government in the United States.
- The students understand American beliefs and principles reflected in the U. S. Constitution and other important historical documents.
- The students understand the process of changing the U. S. Constitution and the impact of amendments on American Society.
- The students understand the impact of landmarks Supreme Court cases.
- The students understand the rights and responsibilities of citizens of the United States.
- The students will use critical thinking skills to analyze social studies information.
- Summarize the landmarks Supreme Court decisions from the late 18th and 19th centuries.

To introduce the curriculum to the enrichment class, students will complete an exercise using Judge Judy Sheindlin’s book *You Can't Judge A Book By It's Cover - Cool Rules for School*. In this book, Judge Judy tackles the moral choices kids encounter everyday at school. It is in the schools that kids can face their toughest tests of character. Judge Judy helps students prepare by examining the deeper meaning behind popular sayings such as “Never put off tomorrow what you can do today.” The transparency lesson will be shown one at a time and each cooperative learning group will be given 5 minutes to discuss the scenario and judge which of the four responses best fits the case. Students will then copy each “saying” and discuss the meaning with parents and friends. During the next class period students will compare their group answer to the parents/friend answer.

In this book, Judge Judy creates a platform for adults and children to talk through the answers together, exploring moral choices and weighing the consequences they could bring. Judge Judy dares kids to judge for themselves and to make the right choice. After the discussions, students will make poster illustrations of sayings. Examples are: Practice what you preach, face the music, easier said than done, and leave no stone unturned. Students will post illustrations throughout the classroom. They will refer back to each illustration when appropriate during the lessons.

LESSON PLANS

Lesson Plan One: What Are My Rights?

Topics

U.S. History, Constitutional Law, World History

Sub-Topics

Culture, Philosophy, Ethics, Reading

Objectives

It will help to understand the laws, recognized your responsibilities, and appreciate your rights.

Materials Needed

U.S. History Textbook
Notebooks, Pens
Poster Boards
Scissors, Staplers, Markers
Construction Paper
Copies of the English Bill of Rights
Copies of the American Bill of Rights
Video-*The American Bill of Rights*-30 min.

Procedure

I believe that this lesson will enhance students' understanding and appreciation of the ideas that inspired the American Revolution. It will further emphasize that ideas incorporated into the Declaration of Independence reflect the philosophy of the Enlightenment. Teacher will explain that Enlightenment thinkers were concerned with how to create a government that protected individual rights.

1. Students will be issued a copy of the English Bill of Rights. They are to examine closely the important points of the document. The teacher will call for volunteers to read aloud one of the points listed and explain its meaning in their own words. Students will be asked to compare the English Bill of Rights to the American Bill of Rights. They are to point out the similarities and differences between the two documents.
2. Students will view the video-*The American Bill of Rights* and take notes.
3. Students will work in cooperative learning groups of four to analyze the Amendments. Each group will be assigned an Amendment from 4-8. Students will copy the Amendment, and analyze the 6 components of each from the U.S. History textbook. Each group will compile a list of key words from each Amendment and use vocabulary words for that Amendment. Each group will type out their handout/group worksheets, and make copies for the class.

4. Students will create a collage using old magazine pictures that will illustrate a freedom and its effect on people. Each student will present their collage to the class and they will have to list the freedom or right that it represents.

Lesson Plan Two: Freedom and Independence

Topics

U.S. History, Civics and Government

Sub-Topics

Reading, Writing, Math, Sociology, Art, Literature

Objectives

To understand the Bill of Rights, Amendments and Symbols of Freedom

Materials Needed

Amendment worksheet
Copies of the Amendments
Markers
Chart paper
Sample editorials from local newspaper
List of censored books
Drawing paper
Scissors
Glue
Magazines

Procedure

1. Students will identify which amendment number matches with each right or freedom listed below. There are 26 amendments to the U.S. Constitution. They guarantee certain freedoms for all Americans.

Awesome Amendments

- ___ a. Gave women the right to vote
- ___ b. Protects the rights of people in criminal cases; the accused must be told the charges against him and be allowed to obtain a lawyer
- ___ c. Limits the President to serving two terms
- ___ d. Right to vote cannot be denied because of race
- ___ e. Protects the rights of people in criminal cases – right to a fair trial
- ___ f. Defines citizenship
- ___ g. Provides that U.S. senators must be elected by the people
- ___ h. Powers not given to the federal government belong to the states
- ___ i. Choices for President and Vice-President must be designated
- ___ j. Abolished slavery

- ___ k. States that soldiers can be housed in private homes only with the owner's permission
- ___ l. Gives citizens in Washington, D.C. the right to vote for President and Vice-President
- ___ m. Although all rights are not listed specifically in the Constitution, people still retain these rights
- ___ n. Presidential and Vice-Presidential terms begin on January 20 while congressional terms begin on January 3
- ___ o. Repealed the eighteenth amendment
- ___ p. Found in the Bill of Rights, it guarantees the right to trial by jury in civil cases
- ___ q. Gives state militias the right to bear arms
- ___ r. Gives Congress the right to impose individual federal income tax
- ___ s. Unreasonable searches and seizures are prohibited
- ___ t. Outlines the procedure for presidential succession in case of presidential disability
- ___ u. Protects freedom of religion, speech, press, and assembly
- ___ v. Prohibits the manufacture and sale of alcohol
- ___ w. Payment of tax is not required in order to vote
- ___ x. Lower the voting age to 18
- ___ y. Prohibits courts from setting unreasonably high bail and forbids cruel and unusual punishment
- ___ z. Prohibits federal courts from hearing cases lodged against a state by a citizen of another state

2. Students will write a new amendment that they would like to see added to the Constitution. They will present their amendments to the class. When all new amendments have been presented, the class will vote for just one. Students will send new amendment to their school location congressional representatives in the form of a letter.

3. Students will select one of the following issues and write a one-page essay or editorial, taking a stand on what they believe about it. Teacher will explain that an editorial in a newspaper expresses one's feelings and beliefs about an issue. Freedom of speech and expression allows us to write our views in newspapers.

- | | |
|--------------------------|-----------------------|
| Death penalty | The homeless |
| Teen curfews | The military draft |
| Legalized drugs | Gun control |
| School dress codes | Women's rights |
| Prayer in public schools | Censorship of books |
| Violence on TV/movies | Driving/drinking age. |

4. Interdisciplinary with reading teacher
 Students will read two banned books... *Chocolate War* by Robert Cormier
The Slave Dancer by Paula Fox

In one page, students will write their reaction to the book, answering the following guiding questions:

- a. How did it make you feel?
 - b. Did it make you think about an issue in a different way?
 - c. Should this book have been censored? Why or why not.
5. Symbols of freedom
- a. Students will create a banner, mosaic, or collage (from magazine), using any symbols of freedom: flag, eagle, lit candle, sunburst, star, Statue of Liberty, closed fist, etc.
 - b. Design a flag that shows respect for the things you believe. Symbolize your beliefs through color, graphics or icons, and design. Draw your flag and write a brief explanation of its meaning. (Schurr 141)

Lesson Plan Three: You and the Law

Topics

History, Civics and Government

Sub-Topics

Reading, Writing, Culture/Sociology and Language

Objectives

Students will explore ways in which various laws apply to them as individuals. Students will study Supreme Court cases that relate to the “Rights of Students” and “Teen Privacy Rights.”

Materials Needed

ACLU Handbook for Young Americans

Student baby picture

Notebook, Pens

Video: *Gideon’s Trumpet*- Right to a court appointed attorney

Laptop Computers for individual use

Procedure

This unit will be introduced with a fun activity. Picture yourself as a newborn baby (bring a picture from home if available). If it is true that the law touches everything we do from the moment we are born until we die, let’s try to prove that statement. Picture yourself as a newly born baby, in the center of a diagram with a web of people and events surrounding your arrival.

1. List the ways in which the law is woven into the fabric of your life from the very first day of your life.
2. Students will volunteer to write on the board what laws they think affected them as a newborn.

3. After class discussion, the teacher will explain the legal processes and documents involved in the hospital scenario:

A baby is delivered in a licensed hospital by licensed doctors and nurses. The hospital building itself was designed by a licensed architect who must obey zoning and building codes. The infant is registered on a legal birth certificate and is a legal citizen of the state of birth and the USA. Mother and Child are driven home by a licensed driver who must obey traffic laws. Baby is welcomed home by the licensed family dog who bounds out of the family home or apartment which is owned or rented under a legal contract. Baby is cuddled by a sister or brother who may run an errand for the new family member on a license bike to a local drugstore which is licensed to dispense medicine, with a registered pharmacist on duty. As the child grows she may attend a daycare center whose rules are written by the government and, of course, attend a school (again, built to strict codes) and taught by certified teachers. The list never ends. Law is pervasive and important in every aspect of our lives. (Lipson 14)

4. Students will read and analyze the following Supreme Court cases using the ACLU handbook for Young Americans:

Tinker v. Des Moines

Goss v. Lopez

Brown v. Board of Education

Engle v. Vitale

New Jersey v. T.L.O.

This lesson is similar to the case method of teaching law. Using the case method, students get the facts, make their decision, and then compare their decision to the outcome of the case. There are no “right” and “wrong” answers in keeping with an issue-centered approach to social studies. Questions will encourage students to work in cooperative learning groups to brainstorm activities and think of arguments for or against a situation. Each case will be issued as a handout material for student notebooks. Books are available in the school library on reserve for research purposes.

5. Students will make Miranda Rights Card. They will use laptop computers and print out on card stock paper. All cards will be laminated and carried by each student during the semester. Students are to memorize the warning and will be quizzed at an appointed date.

Lesson Plan Four: Mock Trial Role Play

Topics

U.S. History, Civics and Government

Sub-Topics

Reading, Writing, drama

Objective

Students will learn how a trial is structural. Student will actively participate by a role playing in a mock trial.

Materials Needed

Mock trial cue cards

Gavel

Bible (for sworn testimony)

Bailiff uniform (boy scouts uniform)

Laptop computer (court reporter)

U.S. Flag

Sign for Jury Section

Notebook paper, pens

3x5 index cards

Video: *Gideon's Trumpet*

Procedure

The lesson begins with a discussion of a trial. Students will give examples of what types of trial that have a first hand witness of by viewing television, news, etc. Students will be asked to give reasons of why trials are held.

1. Students will view video-Gideon's Trumpet and take notes
2. Each student will be given the opportunity to be selected in a trial role play position. The following positions will be posted:
 - a prosecuting attorney to represent the State and the victim
 - a defense attorney to represent the accused
 - a judge
 - a bailiff
 - a court recorder
 - a student to act the part of defendant
 - one student to act the part of the complaining witness
 - members of the jury pool
 - several witnesses: some friendly to the defendant and some friendly to the complaining witness (Lipson 44)
3. Each cooperative learning group will make-up a trial scenario. They will present their case to the class. Each student will vote on the "best" trial scenario. After tabulating results, students will work on the trial scripts. Each student will be selected by vote as a trial participant. The trial will be video taped and presided over by an official juvenile court judge. (Pre-arranged and held on a Saturday school workshop day.)

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This cartoon style program examines the reason for the creation of the Bill of Rights. An explanation of each amendment is given its historical context.

Gideon's Trumpet. Dir. Robert E. Collins. Hallmark Hall of Fame Productions, 1980.
104 min.

How Clarence Earl Gideon, a poor prisoner, took his case to the Supreme Court and changed the law of the United States. Trial without a court appointed lawyer.

The Law of the Land: The Constitution of the United States. Thomas S. Klise Co.,
1995. <<http://www.Klise.com>>. (800) 937-0092.

A look at the history of the Constitution is provided in this cartoon-style program, including a visit to the Constitutional Convention.