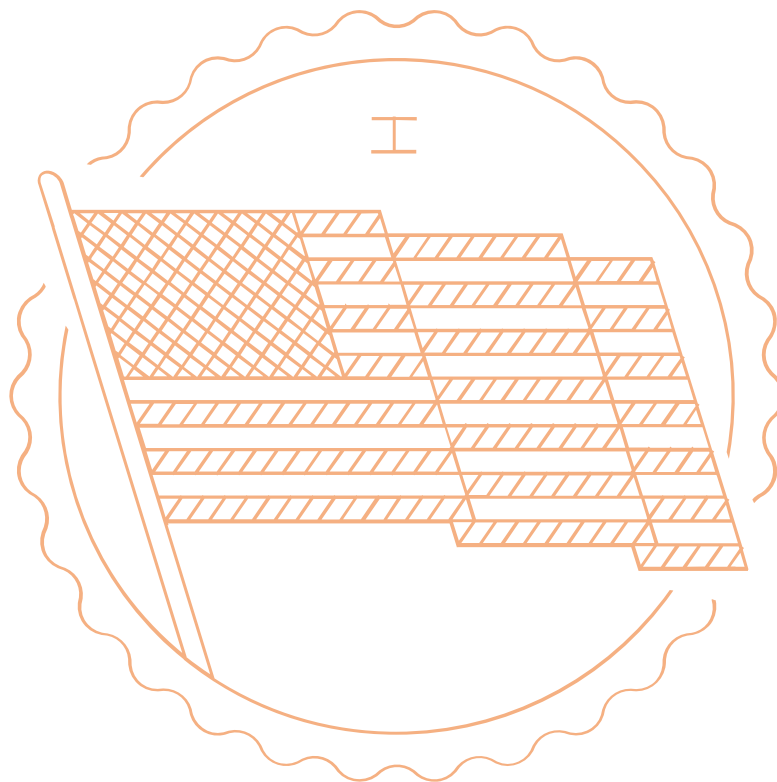


INTERACTIVE
CONSTITUTION

FREEDOM OF THE PRESS

LESSON PLAN



FREEDOM OF THE PRESS LESSON PLAN

GRADE LEVELS:

6th through 8th

NUMBER OF CLASS PERIODS:

1 (approximately 55 minutes)

AUTHOR:

Yolanda Medina Zevas

INTRODUCTION/LESSON OVERVIEW:

Many Americans do not fully understand the history and text of the First Amendment, even if the rights enshrined within are used every day. While many Americans, like much of the founding generation, can agree that freedom of the press should be protected, there are disagreements over when, why, and how freedom of the press may be limited. This lesson encourages students to examine their own assumptions and to deepen their understanding of the currently accepted interpretation of freedom of the press under the First Amendment.

Essential Questions:

- How does the First Amendment protect the freedom of press?
- Why was the protection of the press important to the founders, and why does it remain vital to American democracy today?

Objectives:

- Students will be able to explain why the Constitution protects freedom of the press.
- Students will be able to analyze controversies involving the First Amendment provision protecting freedom of press.
- Students will be able to apply varying interpretations of the First Amendment provision protecting freedom of press to controversial issues involving speech.
- Students will be able to explain the very limited conditions under which freedom of the press can be restricted and why those conditions are so limited.

Materials:

- Warm up Scenario worksheet (included)
- Overview, Part 2 video on the First Amendment:
<https://constitutioncenter.org/interactive-constitution/learning-material/first-amendment>.
- Video guide questions (included)
- Access to Oyez.org or printed copies of the following case briefs:
 - *New York Times Company v. United States*, 403 US 713 (1971)
 - *Miami Herald Publishing Company v. Tornillo*, 418 US 241(1974)
 - *Hazelwood School District v. Kuhlmeier*, 484 US 260 (1988)
 - *Feiner v. New York*, 340 US 315 (1951)
 - *Layshock v. Hermitage School District*, 650 F.3d 205 (3d Cir. 2011)
§ Not an oyez.org case; a brief can be found here:
<https://splc.org/2014/09/layshock-v-hermitage-school-district/>
- Case Interpretation worksheet (included)
- Exit Ticket worksheet (included)

PROCEDURES:

Warm up/Activation of Prior Knowledge

- Upon entering the classroom, students will receive a hypothetical situation involving student journalists and the press. If students' desks are arranged in groups, each group should receive the same hypothetical. If not, handouts can be given at random.
- The provision of the First Amendment that protects freedom of the press should be displayed on the board for reference while answering the hypothetical questions.
- Students will share their constitutional perspectives on how the freedom of the press clause should be applied to their scenarios.

Providing Historical Background

- The teacher should discuss varying concepts involved in the interpretation of the First Amendment press provision. This discussion should include some historical context of why the founders thought that the freedom of press was important, including that some of their generation had been charged with treason for criticizing their former government. Interpretations can be found through the National Constitution Center's *Interactive Constitution* website, found [here](#).
- Students should be able to brainstorm reasons that free press is important to representative democracy.
 - The press needs the ability to freely cover and critique government actions so that citizens can make effective electoral decisions, oversee government activities, participate in the policy-making process, and hold public officials accountable.
 - The discussion should include the fact that the government may not engage in prior restraint of materials published by the press by preemptively punishing or prohibiting publication.
 - While people can sue publications for printing materials that are false and published with malicious intent, these types of cases are often very hard to win. Remind students of their previous work on the First Amendment freedom of speech provision and their previous interactions with the *Interactive Constitution*.

Possible discussion questions include:

Q: How are speech and press related?

A: Both press and speech are fundamental expressive rights that citizens have under the U.S. Constitution.

Q: How are speech and press important to a strong democracy?

A: Both rights are necessary for citizens to remain informed and actively involved in the democratic system—including the ability to criticize, or “check,” the government.

Q: Why is it important for the press and the people to be able to criticize government action?

A: If people are to act as the ultimate check on government power through popular sovereignty, they must retain the right to criticize government action.

Q: Who counts as press? Is it important to distinguish between the press and the general public in terms of First Amendment protections?

A: The Constitution does not make an official designation; it only protects the right to publish sentiments.

Q: How has modern technology, like the internet and social media, changed the view of press freedoms?

A: If one considers blogs to be the modern equivalent of newspapers, then any person with internet access could technically be considered press.

Preparing for Group Activity

- The students will watch the Overview, Part 2 video on the First Amendment available at: <https://constitutioncenter.org/interactive-constitution/learning-material/first-amendment>. They should take notes on the video guide provided.

Whole Class Activity

- The four case briefs included should be printed prior to the class activity and positioned in four stations around the classroom. The number of printed copies of each brief should match the number of students in each group.
- Divide the class into four groups and assign each group a station at which to begin. At their assigned station, students should read the brief provided and complete the Case Interpretation worksheet.

Whole Class Review/Debrief

- Each group should share their answers to the Case Interpretation worksheet with their peers, answering any questions from those students not in their group as necessary.
- Teachers should help students, particularly with the reasoning of the courts in each decision.
- Afterward, students should go back to their Warm up Scenarios, and complete the “Actual Answer” section, using what they have learned from these cases.
- Teachers should lead a discussion on the following, as a way of applying the main ideas from the introduction video to the court cases and scenarios:
 1. **How are school environments different from the general public in regards to the interpretation of constitutional principles?** Over time, the Court has defined the public school as a unique environment that students are coerced by law to attend. Under those conditions, school acts as a limited open public forum in which school officials can limit speech to protect students from speech acts that might disrupt discipline and good order. As such, public schools are government sponsored entities, where speech and press can be regulated when the speech or publication can be considered “school sponsored.”
 2. **Why is it important to be able to criticize people in power?** In a democracy, the people are the final check on the authority of government institutions. Citizens have a responsibility to be informed and active in order to check government abuse. The press plays a vital role in keeping citizens informed of government action. That includes the right of the press to openly criticize public officials.

Closure/Exit Ticket

Have students record answers to the following:

- How have the courts treated freedom of the press with regard to government concerns? Answers should indicate that the Court has rejected arguments that governments should be able to cease the printing of false, defamatory, and even classified information.
- How has the Supreme Court understood freedom of the press in a school setting and how has it protected student journalists? Why? Answers should indicate that the Court has allowed for prior restraint in school settings, especially where the privacy of students is considering an overriding concern. Setting and context matter here. This does not necessarily apply to an off-campus newspaper.
- Why is the freedom of the press important to democratic principles? Answers should state that the role of the press is to keep citizens informed of government actions so that citizens can perform their duties as informed individuals.

Optional Extension Activity

Have students research more current examples of free speech on campus debates and sharing of government secrets (Edward Snowden, Chelsea Mann), and ask students to use their knowledge of the history and application of the First Amendment press provision.

WARM UP SCENARIO WORKSHEET

DIRECTIONS:

Read the text of the First Amendment of the U.S. Constitution as it refers to the press. Read each of the hypothetical situations and decide if there is a violation of the First Amendment press provision. Answer “Yes” or “No” in the prediction box to indicate your answer. Do not complete the “Actual Answer” column until the end of the activity.

“Congress shall make no law ... abridging the freedom ... of the press ... ”

HYPOTHETICAL SITUATION	PREDICTION: YES OR NO	ACTUAL ANSWER: YES OR NO
1. Can a public school prevent the student newspaper from running an editorial criticizing the school principal?		
2. Can the government require that, when newspapers endorse political candidates, they provide equal space to other candidates as well?		
3. Can a principal punish you for criticizing her on social media?		
4. Can a public university disinvite a controversial speaker?		
5. A newspaper receives top secret documents that show that the government has been lying about its involvement in an ongoing war. Can the newspaper publish the documents to reveal the truth to the public?		

VIDEO GUIDE QUESTIONS

1. What does the Zenger trial show about colonial notions on the importance of freedom of the press? How much freedom should the press have in what it prints?

2. To what extent does freedom of speech and press apply to students? How does this compare to adults' freedoms?

3. What does our nation value when making decisions about freedom of speech and press, according to Justice Elena Kagan?

CASE INTERPRETATION WORKSHEET

CASE		
<i>New York Times Company v. United States</i> , 403 US 713 (1971), <i>Miami Herald Publishing Company v. Tornillo</i> , 418 US 241 (1974)		
CONSTITUTIONAL QUESTION	COURT DECISION	WHY? COURT'S REASON FOR DECISION

CASE		
<i>Hazelwood School District v. Kuhlmeier</i> , 484 US 260 (1988)		
CONSTITUTIONAL QUESTION	COURT DECISION	WHY? COURT'S REASON FOR DECISION

CASE INTERPRETATION WORKSHEET (CONT.)

CASE		
<i>Layshock v. Hermitage School District</i> , 650 F.3d 205 (3d Cir. 2011)		
CONSTITUTIONAL QUESTION	COURT DECISION	WHY? COURT'S REASON FOR DECISION

CASE		
<i>Feiner v. New York</i> , 340 US 315 (1951)		
CONSTITUTIONAL QUESTION	COURT DECISION	WHY? COURT'S REASON FOR DECISION

COMMON CORE STANDARDS ADDRESSED IN THIS LESSON PLAN:

History/Social Studies

CCSS.ELA-LITERACY.RH.11-12.1

Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

CCSS.ELA-LITERACY.RH.11-12.2

Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.

CCSS.ELA-LITERACY.RH.11-12.4

Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines *faction* in *Federalist* No. 10).

CCSS.ELA-LITERACY.RH.11-12.10

By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

Speaking and Listening

CCSS.ELA-Literacy.SL.11-12.1

Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

CCSS.ELA-Literacy.SL.11-12.2

Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

CCSS.ELA-Literacy.SL.11-12.3

Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

CCSS.ELA-Literacy.SL.11-12.4

Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

CCSS.ELA-Literacy.SL.11-12.6

Adapt speech to a variety of contexts and tasks, demonstrating a command of formal English when indicated or appropriate