



CITIZEN ADVOCACY CENTER

Judicial Independence

LESSON PLAN AND ACTIVITIES

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Judicial Independence Lesson Plan and Activities

Grade Level: 9, 10, 11, 12

Subject(s):

- Social Studies: Government; and
- Language Arts: Reading, Writing, Listening and Speaking, Research

Duration: 1 class session

Description: This lesson provides an overview of the issues and cases the Supreme Court decides, who might have an interest in those cases, and why it is important that the judiciary remain independent from the other branches of government.

Goals:

ISBE Standards

A. Social Science: 14A, 14C, 14D; and

B. English/Language Arts: 1A, 1C; 3B, 3C; 4A, 4B; 5C.

CCR Anchor Standards

Objectives:

1. Understand the concept of an independent judiciary; and
2. Analyze why an independent judiciary is vital to American society.

Materials:

1. Notebook paper/pen; and
2. Handout of current cases on the Supreme Court docket or internet access for each student to view the Supreme Court's website

Instruction and Activity

Introductory Exercise

Begin by asking if any of the students can name any of the current Justices of the Supreme Court. Answer (as of May 2017): Chief Justice John Roberts, Associate Justices Samuel Alito, Stephen Breyer, Ruth Bader Ginsberg, Elena Kagan, Anthony M. Kennedy, Sonia Sotomayor, and Clarence Thomas.

Give students some other background facts about the Supreme Court, possibly including the following:

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1. The Supreme Court consists of the Chief Justice of the United States and a number of Associate Justices as determined by Congress;
2. The current number of Associate Justices is fixed at eight (28 U.S.C. §1);
3. Power to nominate Justices is vested in the President of the United States and presidential appointments are made with the ‘advice and consent’ of the United States Senate;
4. By law, the term of the Court begins on the first Monday in October and lasts until the first Monday in October of the following year;
5. The Supreme Court has jurisdiction to hear cases in which a state or the federal government is a party, cases involving the death penalty, and cases involving foreign governments. The Supreme Court may pick and choose which cases it will hear when cases come up from lower federal or state courts. The decisions about which cases the Supreme Court does not hear are often just as important as the actual decisions made on cases which they hear. When the Supreme Court declines to hear a particular case, then the decision made by the lower court becomes binding law as the Supreme Court has indicated it agrees with the lower court decision. Written decisions of the Supreme Court can have wide-ranging ramifications, not only for the parties involved in the particular case, but for the whole country.
6. Approximately 8,000 petitions are filed with the Supreme Court each term; only about eighty of those (1%) are chosen for oral arguments;
7. Typical cases heard by the Supreme Court involve constitutional questions or federal law;
8. The publication of written opinions (including concurring opinions, dissenting opinions, and orders) typically totals some 5,000 pages per term; and
9. Some written opinions are revised a dozen or more times before they are announced and released to the public.

Lecture

“The Constitution protects judicial independence not to benefit judges, but to promote the rule of law: Judges are expected to administer the law fairly, without regard to public reaction.” --
Former Chief Justice William Rehnquist

The Constitution dictates that the judicial branch is independent of the political branches of government. All power to interpret the law and to determine the constitutionality of laws is given to the judiciary alone. To ensure that judges make decisions to benefit the public at large rather than political interests, judicial independence is accomplished by granting life tenure to judges on the federal court. The idea is that then a judge is not influenced by politics.. At the same time, the Constitution makes the judiciary accountable to the political branches in that those branches have the power to nominate and confirm federal judges, to impeach and remove federal judges, to constitute the lower federal courts, to regulate court jurisdiction (determine which types of cases they are permitted to review), and to make any laws necessary to allow exercise of these various powers, such as laws for funding the court system and overseeing court operations. The Constitution anticipates that tension will exist between the three branches of government as part of the system of checks and balances, but one branch is never supposed to be subservient to another.

Judicial Independence is intended to guarantee:

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- That resolution of disputes will be based on legal principles. Judges are supposed to decide cases based on the law and previous interpretations of the law, not based on the whims of politicians. If judges were to decide disputes based on political or popular belief, the judiciary would be no different than the other two branches of government. Judges need immunity from politics in order to maintain proper checks and balances in the system.;
- Individual rights -- Individual rights are fundamental in the United States. People are allowed to say or do things, even unpopular things if they so choose (e.g. freedom of speech and of religion). Individual rights would disappear if judges were not insulated from politics and the popular view; no other branch of government enjoys this type of immunity from politics;
- That the government will follow its own laws. If the judiciary is functioning as intended in interpreting the law, determining the constitutionality of the law, and maintaining a check on the other branches of government, the Executive and Legislative branches can resolve inter-governmental disputes more easily.
- Although some people argue that the election of judges jeopardizes judicial independence, many states, Illinois included, elect state judges to the circuit courts, the court of appeals and the state Supreme Court. Elected officials are subject to the will of their constituents, yet judges are supposed to remain impartial and not be swayed by political factors. Which way do you think judges can be more independent: appointed or elected?

Activity

Using the Supreme Court's website, www.supremecourtus.gov/, find and discuss some of the cases currently on the docket for review. Questions for discussion may include:

Why are these cases important enough to be reviewed by the Supreme Court?

Why is it important to have an independent judiciary review these cases?

Who may have an interest in these cases?

How could politics influence the arguments in these cases?

How could political influence manifest itself in an elected court?

What factors should influence the arguments in these cases?

What factors should not influence the arguments?