

Delaware Law Day in the Schools 2009 Lesson Plan

The content material for this lesson was created by the “**We the People**” Program from the **Center for Civic Education**. It is used with permission from *We the People: The Citizen & the Constitution*. © 2009 Center for Civic Education. Calabasas, California. Following are the procedures to be used by the hosting teachers and by the visiting attorney/judge. It meets **Delaware Civic Standard Two**: “Students will understand the principals and ideals underlying the American political system.” To obtain a copy of the content material for the lesson, go to the web site: <http://lincoln.civiced.org>.

NOTE TO THE TEACHER:

Please write the following on the board. It will be used in the lesson:

Essential Question: How has the United States government been able to remain effective through over two centuries of change and how has the country balanced conflict between tradition and change?

If you have a 45 minute class, the first section of the lesson should be done the day before the visit. It can be done as a homework assignment or in class depending on how much support your class needs and your schedule. The following procedures assume that you will do the entire lesson in class. If you have a 90 minute block schedule, your visiting attorney/judge will do section 2. You will want to begin his/her section with a brief introduction of your guest. We ask that you assist in the presentation, particularly with the small group activity. You may want to use the last question in section 2, (3c) as an application assessment question. Students could be asked to do some additional research and to write a short essay comparing how Lincoln balanced and Obama hopes to balance a similar conflict between tradition and change.

Homework Assignment:

Assign Supplemental Lesson “Lincoln: What was Abraham Lincoln’s Legacy to American Constitutionalism and Citizenship?” as a homework assignment to be read prior to class. It can be obtained from the web site: [Lincoln.civiced.org](http://lincoln.civiced.org) and is used in this lesson plan with permission from *We the People: The Citizen & the Constitution*. © 2009. Center for Civic Education. Calabasas, California

Procedure Steps:

Section 1: Total time 45 minutes

1. Focus Question

5 minutes

- a. Read the **Essential Question** written on the Board. Read to the class the “Purpose of the Lesson”, the first two paragraphs on page 1. of the Supplemental Lesson **Lincoln: What was Abraham Lincoln’s Legacy to American Constitutionalism and Citizenship?”**. Ask students to give one example of a tradition Lincoln help to change and one tradition he helped to preserve. Discuss examples briefly.

- b. Explain that what happens in government is a ‘*dynamic process.*’ There is always tension between the ways things have been done in the past (traditions) and the ways people think things should be done in the future (change). The right to enslave another person is an example.

2. Think-Pair-Share:

20 minutes

- a. Break students into pairs. Review Question 1. on page 7, “Reviewing and using the lesson.” Ask the pairs to read the first section of the lesson, “**Who Was Abraham Lincoln?”** One of the pair should list all the key events that led to Lincoln’s rise to power.

- b. Ask pairs to identify “Key Events” and list them on the board. Ask if everyone agrees with the list and if there is one they think is most important.

- c. Ask students what “Key Events” are similar to President Obama’s rise to power. (Note: Support of family, commitment to learning, becoming a lawyer, election to the Illinois state legislature, election to congress, election as President, as examples.)

3. Whole Group Discussion:

20 Minutes

a. Provide students with a copy of **Student Handout One: Methods Used to Interpret the Constitution** from, *We the People: The Citizen & the Constitution*. © 2009 Center for Civic Education. Calabasas, California, page 180.

b.. Please note to the students the source of the material. Also note that the comments in parentheses, which discuss the views of critics of each position, were provided by Professor Robert Hayman of the Widener University School of Law.

c. Read and review each method. Discuss key terms/concepts in each method and criticisms, **which are in bold**. Have class brainstorm the advantages and disadvantages of each method. Ask students to select the one they prefer and to explain why.

Section 2: Total time 45 Minutes

1. Focus Question:

10 minutes

a. Quote the following from the Declaration of Independence and ask the students if they recognize it:

“We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness – That to secure these Rights, Government are instituted among Men, deriving their just Powers from the Consent of the Governed, . . .” Identify the source, if they don’t.

b. Read the question at the bottom of the first column on page 6., “How did Lincoln maintain and advance the fundamental principles of America’s founding era?” and the following two paragraphs to the students.

- c. Ask them to review their copy of Student Handout 1. Which method or methods of interpreting the Constitution do they think Lincoln was using? (Probably the 2nd, 3rd and/or 4th points are possible arguments)

2. Small group activity

25 minutes

- a. Break students into groups of 5. **Have teacher assist with this.** It is easiest not to have students move around a lot, but the teacher may have a way she does this. Ask each group to pick a leader and a recorder. (One way to pick is the student whose birthday is closest to Feb 12 is the leader and the one closest to May 1 is the recorder.) Give each groups one of the three Assignment Sheets with the graphic organizer. You will probably have more than one group doing each question. Review general instructions on the Assignment sheets, Handouts 2A, 2B and 2C.
- b. Explain that the leader is responsible for reading the question and the other group members should look for materials in the reading to answer the question and the recorder should write the information down on the handout.
- c. Ask the recorder of each group to present their answers. Compare and discuss group's responses. They should answer the question and describe their chart.

3. Whole Group Discussion

10 minutes

- a. Review the "Essential Question" written on the Board.
"How has the United States government been able to remain effective through over two centuries of change and how has the country balanced conflicts between tradition and change?"
- b. Ask students to identify ways that Lincoln helped the county balance these conflicts. What traditions did Lincoln seek to protect? What changes did he support?

c Ask students if they believe our new President will face similar problems and what they might be (treatment of terrorists, use of National Guard, for example.)

STUDENT HANDOUT 1.

Below is an excerpt from the text *We the People, The Citizen & the Constitution*, page 180. It is reprinted with permission from *We the People: The Citizen & the Constitution*. © 2009. Center for Civic Education. Calabasas, California. The excerpt is focused on how the Supreme Court might interpret the Constitution, but these same methods apply to how anyone might argue that something is or is not constitutional. The material at the end of each method in parentheses, discussing the criticism of each method, was provided by Professor Robert Hayman from Widener University School of Law.

METHODS USED TO INTERPRET THE CONSTITUTION

Some parts of the Constitution are very specific. For example, Article I states, “The Senate of the United States shall be composed of two Senators from each State.” Many provisions are not as clear as this one and so require interpretation.” (An example is)

“No state shall . . . deprive any person of life, liberty, or property, without due process of law” (Amendment XIV)

*Following are four common **methods of constitutional interpretation**. All interpretations, regardless of method, begin with the words of the Constitution.*

- ***Textualism, literalism or strict construction***

*This method involves looking at the meaning of the words in the Constitution and giving each word, phrase or clause its **ordinary meaning**. Advocates of this method argue that interpreting the Constitution according to its **plain meaning** keeps the Supreme Court **neutral** and helps justices **avoid imposing their values** on the Constitution. Relying on the plain meaning of words also makes the **law certain and predictable**. (Critics of this approach contend that **words rarely have just one “plain meaning”** and that the very abstract and general phrases of the Constitution usually have many possible meanings.)*

- ***Original Intent or original history***

*This method is related to the method described above, but it addresses the question of how to interpret words, phrases or clauses that are not clear. Advocates of this method **seek to understand what the Founders meant** when they wrote the words. They argue that the Founders debated and chose the words of the Constitution carefully, with the goal of producing an enduring constitutional framework. Seeking and applying the **original intent** of the Founders*

helps to maintain stability and neutrality in the law. (Critics of this approach contend that the **framers of the Constitution had many different**, often conflicting **intentions**, and that their specific intentions – when they are known – don't always translate well to a **world so different** from the one in which they lived.)

- ***Fundamental Principals***

This method looks to principals - such as natural rights, republican government, or limited government – to interpret the meaning of words, phrases, and clauses that may not be clear. Advocates of this method argue that identifying the fundamental principles embodied in the Constitution is a useful way to determine the meaning of words, phrases, or clauses that may not be clear. (Critics of this approach contend that these “**fundamental principles**” are not easily **discerned** and are often difficult to define.)

- ***Modernism or instrumentalism***

This method starts from the premise that the Constitution should be interpreted and the interpretation should adapt to changing circumstances and contemporary needs. Otherwise, advocates of this method argue, the Constitution will have to be amended frequently or new constitutional conventions will need to be held. Advocates of this method further argue that Justices should not hold back social progress by adhering to outmoded understandings of the Constitution. (Critics contend that this approach vests **too much discretion in the court**, and that it **values pragmatic concerns too much** and **rules and principles too little**.)

DIRECTIONS TO STUDENTS:

Brainstorm the advantages and disadvantages of each method, then select the one you prefer and explain why.

STUDENT HANDOUT 2A

Answer Question 2 on page 7 of the Reading

What supports Lincoln's position that his actions were constitutional? What supports the position that Lincoln's actions were unconstitutional? List them on the chart below.

CONSTITUTIONAL	UNCONSTITUTIONAL

STUDENT HANDOUT 2B

Answer Question 3 on page 7 of the Reading.

What supports Lincoln's position that his actions were constitutional? What supports the position that Lincoln's actions were unconstitutional? List them on the chart below.

CONSTITUTIONAL	UNCONSTITUTIONAL

STUDENT HANDOUT 2C

Answer Questions 5, 6 and 7 on page 7 of the Reading.

What supports Lincoln's position that his actions were constitutional? What supports the position that Lincoln's actions were unconstitutional? List them on the chart below.

CONSTITUTIONAL	UNCONSTITUTIONAL