

Lesson 5: Diversity and Equality

OVERVIEW

In this lesson, students explore how our political system addresses issues of diversity. First, students read and discuss an introductory article about diversity and equality. Next, they read an activity reading on the constitutional issue of student-led prayer at public school events. Finally, they role play Supreme Court justices and attorneys deciding this issue.

OBJECTIVES

Students will be able to:

1. Express different viewpoints about the role and value of diversity in America.
2. Explain a historical conflict over diversity.
3. Argue and decide a constitutional issue over diversity.

STANDARDS ADDRESSED

National Civics Standards for High School

- (11) Understands the role of diversity in American life and the importance of shared values, political beliefs, and civic beliefs in an increasingly diverse American society
- (14) Understands issues concerning the disparities between ideals and reality in American political and social life

PREPARATION

In advance of the lesson, you might assign for review the key words for this lesson from **Handout Q**.

PROCEDURE

- A. Focus Discussion:** Hold a brief discussion by asking students: “Do you think our nation does enough to ensure equal protection under the law? Why or why not?”
- B. Introductory Reading and Discussion:** Have students read **Diversity and Equality** on page 24. Hold a brief discussion using the **Points of Inquiry** on page 25.
 1. In what ways is America a diverse society? What are some different viewpoints about the role and value of diversity in American life? How has diversity affected American politics?

2. What are some conflicts in American history that have taken place over diversity? Why do you think some of these conflicts have been resolved and others have not?
3. Why do you think constitutional principles must be followed when managing conflicts with diversity?
4. What gaps are there between the ideal of equality and actual equality in American society? What efforts do you know about that have reduced these gaps? Do you think ideals, like the ideal of equality, are important? Explain.

- C. Activity Reading and Discussion:** Have students read **Should Students Have the Right to Lead Prayers at Public School Events?** on page 25. Conduct a class discussion using the **Points of Inquiry** on page 27.

1. What is the establishment clause? What is its purpose?
2. Do you think the establishment clause is important? Explain.
3. What do you think are the strongest arguments on each side in the student-led prayer case?

- D. Small-Group Activity: Supreme Court Role Play**

Step 1. Explain that the Supreme Court had one issue before it in the Texas student-led prayer case. Write the issue on the board: Does the school board policy permitting student-led, student-initiated prayer at football games violate the establishment clause?

Step 2. Inform students that they are going to take part in a role play of the Supreme Court deciding this issue. Divide the class into groups of three. Assign each student in each triad one of three roles: (1) lawyer for the school board, (2) lawyer for the Catholic and Mormon families, and (3) Supreme Court justice.

Step 3. Regroup the class so that students can consult with one another while preparing for the moot court. Put school board lawyers on one side of the room, lawyers for the families on the other, and Supreme Court justices in front. Tell the lawyers to think up their best arguments and the justices to think up questions to ask each side. Tell everyone to refer to the reading.

Step 4. Regroup into triads and begin the moot court. The justices leading each group should let school board lawyers present their cases first and then have the opposing lawyer speak. The justice can interrupt to ask questions. After both sides present, have the justices return to their seats in front, discuss the case in front of the class, and vote. Each justice should individually state his or her opinion on the case.

Step 5. Debrief by asking what were the strongest arguments on each side.

Lesson 6: Conflicts

OVERVIEW

In this lesson, students explore methods that governments use to resolve conflicts. First, students read and discuss an introductory reading about how our constitutional democracy deals with conflicts. Next, students read and discuss an activity reading about legal methods for dealing with conflicts over eminent domain actions. Finally, working in small groups, students evaluate hypothetical cases to determine whether they qualify as “takings” requiring just compensation under the Fifth Amendment of the Constitution.

OBJECTIVES

Students will be able to:

1. Identify examples of conflicts between basic values or constitutional principles.
2. Identify factors in American society that have contributed to lessening divisiveness.
3. Evaluate whether hypothetical cases qualify as “takings” under the Fifth Amendment.

STANDARDS ADDRESSED

National Civics Standards for High School

- (13) Understands the character of American political and social conflict and factors that tend to prevent or lower its intensity

PREPARATION

In advance of the lesson, you might assign for review the key words for this lesson from **Handout Q**. You will also need a copy of **Handout E** for each student.

PROCEDURE

- A. Focus Discussion:** Remind students that our Constitution guarantees the right to free speech and the right to a fair trial. Ask students: “How might these two rights come into conflict? Which right is more important? Why?” Hold a brief discussion.
- B. Introductory Reading and Discussion:** Ask students to read **Conflicts** on page 28. Hold a class discussion using the **Points of Inquiry** on page 29.
 1. What are some examples of conflicts between basic values or principles?

Key Terms

1

common law
 constitution
 constitutional government
 democracy
 divine right of kings
 English Bill of Rights (1689)
 John Locke
 limited government
 Magna Carta
 natural rights
 popular sovereignty
 rule of law

2

Articles of Confederation
 Bill of Rights
 checks and balances
 constitutional amendment
 Declaration of Independence
 Enlightenment
 liberalism
 Protestant Reformation
 separation of powers
 state constitutions
 U.S. Constitution

3

confederal system
 direct democracy
 federal system
 monarchy
 parliamentary system
 political authority
 politics
 representative democracy
 republic
 system of shared powers
 unitary system

4

authoritarian government
 civil society
 common good
 justice
 liberty
 private sector
 Progressive era
 Puritan work ethic
 totalitarian government
 voluntary associations

5

affirmative action
 commerce clause
 diversity
 establishment of religion
 14th Amendment
 free exercise of religion
 secular
 separation of church and state

6

eminent domain
 just compensation
 loyal opposition
 police powers
 Prohibition
 property
 public use
 zoning

7

domestic policy
 executive branch
 Federal Communications
 Commission
 Federal Reserve Board
 flat tax
 graduated tax

independent federal regulatory
 agency
 judicial branch
 legislative branch
 presidential veto
 progressive tax
 regressive tax
 Securities Exchange
 Commission
 trade policy
 value-added tax

8

bicameral
 city
 concurrent powers
 county
 municipality
 reserved powers
 special district
 state
 10th Amendment
 unicameral

9

appellate courts
 civil courts
 criminal courts
 due process of law
 equal protection
 impeachment
 independent judiciary
 judicial review
 mediation
 negotiation
 ordered liberty
 recall

Diversity and Equality

America is a diverse country. Its diversity takes many forms. It is racially and ethnically diverse, having significant numbers of citizens of all races and major ethnic groups. There is great religious diversity: Catholics, Protestants, Mormons, Jews, Muslims, Hindus, Sikhs, Bahais, Wiccans, and Native

American faiths are all represented. There is a vast range of socioeconomic levels from the very rich to the very poor. There are regional differences from New England to the Far West, from the Deep South to the Great Lakes. Though English is the predominant language, our citizens speak scores of different languages.

Throughout our history, diversity has had a significant impact on our society and its politics.

Before and during the Civil War, the issue of slavery tore America apart. During Western expansion, settlers clashed with Native Americans, and debates raged about how to address the “Indian question.” In the late 19th century, immigration became an issue leading to the exclusion of various Asian peoples. The Irish, a despised immigrant group when they arrived, fought for acceptance and established strong political bases in urban areas such as New York, Boston, and Chicago. The 20th century has seen the struggle of blacks and other minorities for equal protection of the law—a struggle waged in the courts, in the halls of Congress, and in protest demonstrations.

Viewpoints differ about the role and value of diversity in American life. Many believe that diversity is among America’s greatest strengths. It infuses American life with numerous rich traditions, not just one. It enriches our culture with new ideas, numerous art forms, and a wide array of music, foods, holidays, and beliefs. Others view diversity, and

the issues that it presents about the treatment of minorities, as a challenge to our society and its political system. Some worry that the ongoing focus on diversity and its celebration in American life creates destructive tensions in our society leading to division and conflict.

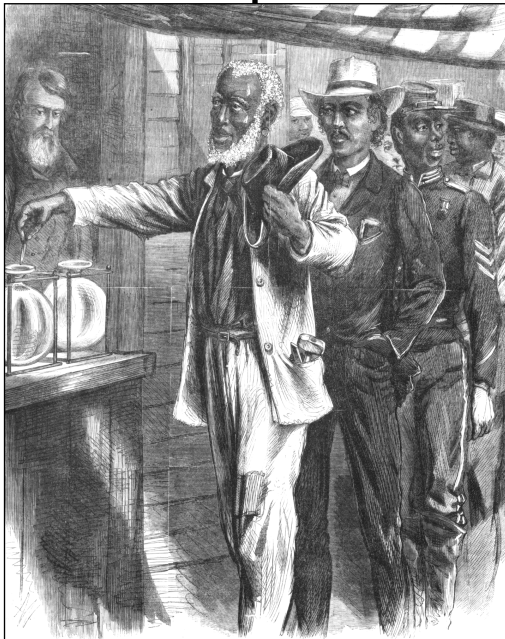
Yet conflicts over diversity are an ongoing reality in American society. Those noting the disparity in economic prosperity between whites and blacks and other minorities seek programs and policies to achieve greater equality. Debates over affirmative action in employment and education mirror this conflict. Religious groups who favor prayer or the posting of the Ten Commandments in public schools claim that their rights of free expression about religion are denied. Advocates for better opportunities for women seek greater equality in pay and promotion in the workplace. Gay and lesbian advocates struggle for anti-discrimination laws and the right to live as domestic partners.

MANAGING CONFLICTS USING A CONSTITUTIONAL FRAMEWORK

Conflicts over diversity must be managed according to constitutional values and principles. For example, the 14th Amendment of the U.S. Constitution forbids states from making or enforcing a law that denies any person “equal protection of the law.” This amendment was passed after the Civil War to assure that the newly freed slaves would be treated fairly.

Because of numerous decisions of the U.S. Supreme Court, the equal protection clause of the 14th Amendment has become a powerful tool for resolving conflicts over diversity. It has been used to strike down many laws and government practices that discriminate against Americans.

The commerce clause (Article I, Section 8 of the Constitution) is another provision that has been used to resolve conflicts over diversity and protect minority rights. It gives Congress the power to “regulate Commerce . . . among the several states.” Congress has used this power to fight discrimination in business and in the workplace.



During Reconstruction, black Americans participated in the electoral process for the first time. By 1877, U.S. voters had sent 22 black representatives to Congress.

Other constitutional provisions also regulate conflicts over diversity. The First Amendment forbids Congress from making any law respecting the establishment of religion or prohibiting the free exercise of religion. Over the years, this amendment has protected religious minorities from interference with their religious practices.

As has been noted, Article I has granted Congress many powers. Congress has used these powers to help resolve conflicts over diversity and protect minorities. For example, by passing the Americans With Disabilities Act, Congress sought to assure that those with disabilities would receive appropriate access to travel facilities, the workplace, and businesses throughout America.

Not all of America's conflicts over diversity have been resolved, nor are they likely to be. The values and principles described in the Constitution set an ideal. They are also subject to interpretation. Disagreements and struggles will continue over how closely the reality of equality is to the ideal of equality in American life. Only on one issue must Americans agree. The struggle over equality must be within the context of our constitutional system of government.

POINTS OF INQUIRY

1. In what ways is America a diverse society? What are some different viewpoints about the role and value of diversity in American life? How has diversity affected American politics?
2. What are some conflicts in American history that have taken place over diversity? Why do you think some of these conflicts have been resolved and others have not?
3. Why do you think constitutional principles must be followed when managing conflicts with diversity?
4. What gaps are there between the ideal of equality and actual equality in American society? What efforts do you know about that have reduced these gaps? Do you think ideals, like the ideal of equality, are important? Explain.

Should Students Have the Right to Lead Prayers at Public School Events?

Religion and high school football are strong traditions in Santa Fe, Texas. Both traditions combined in the fall of 1999 when Santa Fe High School senior Marian Lynn Ward used the press box microphone at the school's football stadium to say a brief pregame prayer. After asking God to watch over those present and to inspire good sportsmanship, Marian ended by saying, "In Jesus's name I pray. Amen." The 4,000 students and adults in the stands enthusiastically cheered the 17-year-old Santa Fe student.

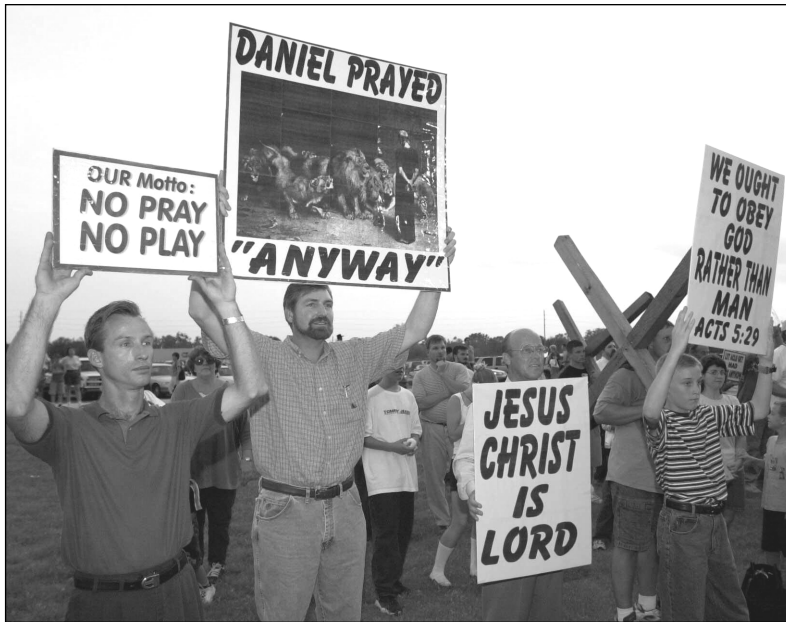
The previous spring, the student body at Santa Fe High had elected Marian to deliver an "invocation and/or message" of her choice at each of the football home games. This was in line with a school board policy. That policy was challenged in a case that eventually reached the U.S. Supreme Court. The court had never before decided a case of a student-led prayer at a school event.

THE CHURCH, THE STATE, AND THE PUBLIC SCHOOLS

The First Amendment of the Bill of Rights says two things about religion. It prohibits Congress from passing any laws that would establish an officially approved religion, and it guarantees that individuals may exercise their own religious beliefs. (The two clauses are known as the establishment clause and free-exercise clause.) Due to the 14th Amendment, state and local governments, including agencies like the public schools, are also bound by these First Amendment clauses.

The creators of the First Amendment knew from experience that establishing an official religion was dangerous, because government could use its power to force people to worship in a certain way. During colonial times, religious groups like the Baptists and Quakers were often persecuted in communities where they were in the minority.

Religion, especially as practiced by the Christian majority, has always had an important influence in American society. Official



In Santa Fe, Texas, supporters rally in favor of student-led prayer at school events.

state-supported Christian churches were eventually “disestablished” after the adoption of the Bill of Rights. But Christian religious practices remained a part of public life in many states. For example, mandatory daily prayers, Bible readings, and similar devotional exercises were common in public schools.

But starting in the 1960s, the U.S. Supreme Court began to abolish adult-led prayers in the public schools. The Supreme Court ruled that such practices established a government-approved religion, in most cases Christianity, which violated the establishment clause of the First Amendment. To avoid this situation, public schools had to appear strictly neutral and neither endorse nor oppose religion.

Some argued that prayers should continue in schools, and those students who did not want to participate in them could remain silent or be excused. But the Supreme Court pointed out that this would brand the non-participating students as outsiders and subject them to ridicule and harassment by their peers.

Over the next few decades, the Supreme Court generally continued to restrict the role of religion in the public schools. An exception was a decision in 1990 involving a high school that refused to permit a Christian club to form. The high court ruled that students could voluntarily meet outside of instructional time to exercise their right of religious speech. [*Westside Community Schools v. Mergens*, 496 U.S. 226 (1990)]

Two years later, though, the Supreme Court held that a public school inviting a clergyman to give an invocation and benediction at a graduation ceremony violated the establishment clause. The court found that because school graduations are such important events in the lives of young people, students are really compelled to attend them. In such a setting, the court concluded, students should not be forced to participate in a religious exercise that might violate their beliefs. [*Lee v. Weisman*, 505 U.S. 577 (1992)]

STUDENT-LED PRAYER

Santa Fe is a heavily Baptist community of about 8,000 people on the Gulf Coast of Texas. In April 1995, a Catholic and a Mormon family both sued the Santa Fe public school district for failing to stop persistent religious practices in the schools. The federal district court allowed the two plaintiff families to file their lawsuit under the assumed name “Jane Doe” because of allegations of intimidation by school authorities.

The plaintiffs objected to teachers promoting their religious views in the classroom, school administrators permitting Bibles to be distributed on the campuses, and a long history of Christian prayers at graduations and athletic events. The federal district court found incidents in which students and even some teachers harassed those who did not accept the Bibles and did not participate in prayers at school events.

By fall 1995, the school board had developed a policy covering football games. It permitted students to deliver a brief “invocation and/or message to be delivered during the pregame ceremonies of home varsity football games to solemnize the event, to promote good sportsmanship and student safety, and to establish the appropriate environment for the competition.”

The policy went on to describe a procedure for two special student elections each spring. One would decide in a secret ballot whether the majority of Santa Fe High students wanted a pregame “invocation and/or message.” The second vote, also by secret ballot, would choose a student volunteer to deliver it. The student who was chosen, like Marian Lynn Ward in 1999, could then decide what to say, as

long as this was “consistent with the goals and purposes of the policy.”

The federal district court ordered that only non-sectarian prayers were permitted. On appeal, the U.S. circuit court decided that the policy was unconstitutional. The school board appealed to the U.S. Supreme Court [*Santa Fe Independent School District v. Jane Doe et al.* (2000)].

When this case reached the Supreme Court in March 2000, the justices agreed to decide the following issue: “Whether [the school board] policy permitting student-led, student initiated prayer at football games violated the Establishment Clause.” The attorneys for the Santa Fe Independent School District made these main points in their written brief to the Supreme Court:

1. The school board policy does not violate the establishment clause because the decisions whether to have a pregame “invocation and/or message,” who will deliver it, and what the student will say is entirely in the hands of students exercising their First Amendment rights.
2. The school board policy is neutral and does not endorse any religion.
3. The student-led “invocation and/or message” could be a prayer, if the student chooses, or, it could be a non-religious statement that conforms to the stated purposes of the school board policy.
4. The school board policy has non-religious purposes such as promoting student free speech and good sportsmanship.
5. The “invocation and/or message” is delivered by a student at a sports event outside of school hours before a mix of students and adults who are attending voluntarily.

The attorneys for the anonymous Catholic and Mormon families made these main points in their written brief to the Supreme Court:

1. The school board policy does violate the establishment clause because using the word “invocation” plus the long tradition of pregame Christian prayers at Santa Fe High football games clearly show a school endorsement of the community’s dominant religion.

2. The two-part election procedure in the school board policy leaves little doubt that the views of the religious majority (mainly Baptists) will be imposed on those who hold different beliefs.
3. The school is not neutral and uninvolved since the student-led prayer can only be delivered during the school’s pregame ceremony, over the school stadium’s public address system, before a crowd assembled on school property for a school-sponsored event.
4. Football team members, band members, and cheerleaders must attend the school’s football games. If any of them chose not participate in the pregame student-led prayer, they could be harassed by others both at the game and later on at school.
5. The school board policy is a sham designed to make sure that the longstanding practice of Christian prayers remains an official Santa Fe High School tradition.

POINTS OF INQUIRY

1. What is the establishment clause? What is its purpose?
2. Do you think the establishment clause is important? Explain.
3. What do you think are the strongest arguments on each side in the student-led prayer case?