

Unit 1
Civil Rights Litigation: Purposes, Processes, and Promises

Unit Questions

How do the fundamental values and principles of American constitutional government shape our legal system, including its rules and procedures? How do ordinary people use the legal system to realize the values and principles of American constitutional government?

Length of Unit

The length of this unit is dependent on your needs for instruction and the students' background knowledge. Depending on the extent to which students have already covered certain topics—for example, the distinction between state and federal courts—parts of the following materials can be omitted at the teacher's discretion. The whole unit is recommended if you want students to fully answer the unit questions above.

Lesson 1 provides important background knowledge if your students will be doing any further work with litigation.

Lesson 2 is necessary if you are going to do a mock trial with students, and will be referenced in the mock trial units.

Lesson 3 can be combined with Lesson 1 and shortened. In its full version, Lesson 3 folds in some independent research for students and gives them more background on specific civil rights laws.

Overview

The United States system of government and law exists and is structured to protect our rights to liberty, democratic self-governance, and equal protection of the law. Individuals can use the legal system to advocate for their civil rights and work to close any gaps that exist between American constitutional ideals and reality. Civil rights litigation is important in upholding the rights of all Americans, including the most vulnerable members of society. Thousands of civil rights cases over the last fifty years have transformed schools, prisons, mental health facilities, housing authorities, police departments, child welfare agencies and more. Ordinary citizens have used litigation to enforce federal statutes and constitutional provisions that require fair treatment by government and prohibit discrimination on the basis of race, color, sex, disability, religion, familial status and national origin. In the process, they have protected and enforced their own rights as well as the rights of countless others.

This unit introduces students to the concept of civil rights litigation. It asks students to consider how the litigation process reflects fundamental values and principles of American constitutional government. By the end of this unit, students should be prepared to talk about how the civil litigation process reflects these values and principles, and to describe civil rights litigation and its current scope.

Unit Objectives and Standards

By the end of this unit, students will be able to:

- Explain the purpose of litigation in American constitutional government, and differentiate between criminal and civil litigation.
 - [NSCG III.D.1](#), [NSCG III.D.2](#);
 - [MI-HSCE 3.4.1](#);
 - [CCSS.ELA-LITERACY.RI.9-10.1](#);
 - [C3 D2.Civ.1.9-12](#), [C3 D2.Civ.3.9-12](#)

- List and explain the steps in civil litigation, and discuss how the civil litigation process embodies values and principles of American constitutional government.
 - [NSCG III.D.1](#), [NSCG III.D.2](#), [NSCG V.B.I](#), [NSCG V.B.2](#);
 - [MI-HSCE 3.4.1](#); [MI-HSCE 5.3.7](#);
 - [CCSS.ELA-LITERACY.RI.9-10.1](#);
 - [C3 D2.Civ.8.9-12](#), [C3 D2.Civ.11.9-12](#)

- Analyze and formulate an argument about how the civil litigation process embodies the values and principles of American constitutional government.
 - [NSCG V.B.2](#)
 - [MI-HSCE 2.2.1](#), [MI-HSCE 6.1.5](#);
 - [CCSS.ELA-LITERACY.RI.9-10.9](#), [CCSS.ELA-LITERACY.W.9-10.1](#), [CCSS.ELA-LITERACY.SL.9-10.1](#);
 - [C3 D2.Civ.5.9-12](#), [C3 D2.Civ.6.9-12](#)

- Identify past and current civil rights cases and explain their significance in American history, noting how people use the legal system to close the gaps between constitutional ideals and reality.
 - [NSCG III.D.1](#), [NSCG III.D.2](#), [NSCG V.B.I](#), [NSCG V.B.2](#);
 - [MI-HSCE 2.2.2](#), [MI-HSCE 3.4.2](#); [MI-HSCE 5.3.8](#);
 - [CCSS.ELA-LITERACY.SL.9-10.4](#), [CCSS.ELA-LITERACY.SL.9-10.5](#), [CCSS.ELA-LITERACY.SL.9-10.6](#);
 - [C3 D2.Civ.3.9-12](#), [C3 D2.Civ.4.9-12](#)

Anticipated Student Understanding/Challenges to Understanding

This unit assumes that students have been introduced to the values and principles of American constitutional government and have already explored, to some extent, how those values and principles influence government structures and practices.

This unit also assumes that students have already learned about the judicial system and the way courts function as a branch of government. They should know that the courts help shape the law in the United States by announcing precedents that other courts then follow.

Because this unit teaches students about civil rights litigation, some historical background on civil rights struggles in the United States would be helpful. Students should be aware that the landmark civil rights legislation of the 1960s—the Civil Rights Act of 1964, the Voting Rights Act, the Fair Housing Act—was preceded by decades of civil rights advocacy and litigation,

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Introduction to Civil Rights and Litigation

including unsuccessful claims like *Plessy v. Ferguson*. If students do not have sufficient background information, there are places within the unit that cue the teacher to provide a short lesson.

Materials Needed

What we provide:

- Unit handouts
- [Brown v. Board background information](#)
- [Brown v. Board complaint](#)
- [Brown v. Board redacted complaint](#) (to show students without revealing the name of the case)
- [Civil Rights Litigation Clearinghouse Search page](#)

What you provide:

- Classroom and student Internet access
- Some examples of civil and criminal litigation from the news
- Teacher-provided writing rubric and prompt for an argumentative essay

NOTE: If going on to Unit 2, ask students to save their materials from this unit.

Unit Assessment

Students write a formal, argumentative essay answering the question, “Does civil litigation procedure adequately reflect the values and principles of American constitutional government?”

References

- Ashbrook, Alexandra M. (2004). *StreetLaw’s Classroom Guide to Mock Trials and Moot Courts*. New York: McGraw Hill.
- Feinman, Jay M. (2010). *Law 101: Everything You Need to Know About American Law*. Oxford: Oxford University Press.
- Mueller, Christopher B. & Kirkpatrick, Laird C. (2011). *Evidence Under the Rules: Text, Cases, and Problems*, pp. 4-12.
- Schmidt, Christopher W. (2016). *The Civil Rights-Civil Liberties Divide*, Stanford Journal of Civil Rights and Civil Liberties 12:1.
- Tigar, Michael E. (2014). *Huck Finn, The River and Trying Your Case*. Kentucky Bar Association.

Lessons

Lesson 1: What is litigation? Why do we need it?

Students will learn introductory material about litigation and will evaluate the purposes of litigation.

Students will be able to:

- Define litigation.
- Distinguish between criminal and civil litigation, and between state and federal litigation.
- Explain several purposes of litigation in the United States.

Lesson 2: What are the steps of the litigation process? Are these court procedures fair?

Students will learn about litigation procedures and evaluate how those procedures comport with notion of fairness.

Students will be able to:

- Identify criteria for fair decision making.
- Describe civil court procedure.
- Make an argument about the degree to which court procedural rules reflect the rule of law, justice, due process, and equality.

Lesson 3: What is civil rights litigation? What purposes does it serve?

Students will use the Civil Rights Litigation Clearinghouse website to explore recent civil rights cases and learn about the concepts of civil rights and civil liberties.

Students will be able to:

- Define civil rights and civil liberties.
- Explain that there are a variety of constitutional clauses and statutes that exist to guarantee people's civil rights and liberties.
- Independently research and present court cases that have enforced civil rights laws, aimed at safeguarding constitutional rights.
- Describe how people use the legal system to enforce their civil rights and libert