

## Lesson 2 Understanding the Evidence

### Lesson Objectives

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Students will be able to:

- Analyze trial court documents, including a complaint and an answer.
- Analyze and make connections between pieces of evidence for a trial.

### Material

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- Handout 4: The Litigation Process
- Student Packet
- Handout 5: Analyzing the Declarations

### Lesson Assessments

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- Handout 5: Analyzing the Declarations

### Instructional Activities

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#### *Anticipatory Set*

- Distribute **Handout 4: The Litigation Process**. \* Students will briefly review of the steps of the pretrial process. Make sure to highlight that discovery is the longest part of the pretrial process.

*\*The beginning of this lesson assumes that students have completed Unit 1 or have otherwise learned about the litigation process during class. If students have not learned this material, give students enough time to read through and annotate the handout with a partner and engage in a class discussion about the different aspects of the litigation process. Unit 1: Lesson 2 on the clearinghouse website provides a more thorough plan for teaching this material.*

- Ask students to think about what kind of evidence they would seek if they were lawyers in the PLN case. When gathering and evaluating the evidence, students need to keep in mind the legal standard that will apply to the case: the point of the evidence is to establish their side of the case, or undermine their opponents' side. Here, the law dictates that the evidence should address both the *content* of the prison's policies and the *need* (or lack of a need) for those policies.

*Guided Practice*

- Provide students with the *Case Packet*, which has adapted documents from the [Civil Rights Litigation Clearinghouse](#) website. If your students have had extensive experience with mock trial, you can instruct students to work with a partner to read and annotate the complaint and the answer. If your students need more guidance, instruct students to turn to page 6 of the case packet and use the Teacher's Guide (below) to guide your students through the complaint and the answer.
- Instruct students to turn to page 14 in the case packet and read through the First Amendment. If you've taught incorporation, you can ask students whether the First Amendment applied and emphasize the process by which the Bill of Rights was deemed applicable to state and local governments, not just federal.
- Have students turn to page 15, which contains declarations from witnesses. Inform students that a declaration is a person's statement, but one thing that makes a big difference is that a declaration is a statement made under oath, so that perjury (lying) is illegal. Ask students to look back at the Nonfiction Source Evaluation Chart and think about what questions will be most useful for analyzing witnesses' declarations. Have students share out their responses and write the questions on the board. Possible questions include:
  - Who is the author? What is their stake in the case? Is this source reliable?
  - What claims does the author make?
  - What evidence does the author use to support these claim?
  - Do other documents agree?

*Independent Practice*

- Distribute **Handout 5: Analyzing the Declarations**. As students read through the declarations, they should write important evidence and use the questions from the board to guide their analysis of the evidence. Students can either (i) read through all the declarations on their own or with a partner, or (ii) read through and analyze two declarations on their own and then jigsaw into a group of four, sharing their evidence and analysis with the group so that each group member has the important evidence and analysis from all of the declarations. If students need guided practice reading through a declaration, a Teacher's Guide for reading through the first two declarations is below.
- If desired, ask students to identify pieces of evidence they think are missing and seek them out on the case site OR ask students to do some independent research on relevant court cases that might serve as precedents for the case.

*Closing*

- Ask students to respond to the following questions:
  - Whose testimony do you think is the most reliable? Why?

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- Whose testimony is the least reliable? Why?
- How could you make their testimony seem more reliable?