

# Modern Day Impact of *Marbury v. Madison*

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Subject / Lesson: US History & the Constitution or Government / Judicial Review

Grade Level: 11th and 12th grade(s)

Overview/Description: Students will examine the basic principle of Judicial Review as a precedent set forth by *Marbury v. Madison*. Students will also analyze the Bill of Rights for ambiguous verbiage that could cause questions related to Constitutional interpretation for the Supreme Court. Students will examine various Supreme Court cases that directly impact student rights/liberties in an educational setting.

Duration: 2 45-minute classes, 1 90-minute class.

Standards:

- USHC-1.7 Summarize the expansion of the power of the national government as a result of Supreme Court decisions under Chief Justice John Marshall, such as the establishment of judicial review in *Marbury v. Madison* and the impact of political party affiliation on the Court.
- USG-4.5: Evaluate the importance of civil rights and civil liberties for citizens in American political culture and the protective role of the national government through the Bill of Rights, the judicial system, and the Fourteenth Amendment.
- USG-4.6 Explain how fundamental values, principles, and rights often conflict within the American political system; why these conflicts arise; and how these conflicts are and can be addressed.

Objectives: TSWBAT

- explain the concept of Judicial Review.
- analyze constitutional questions/discrepancies facing the Supreme Court in the past, present and future
- research and present a Supreme Court case related to student liberties in the realm of education

Materials and Resources:

- “Four Corners” Signs (Agree, Disagree, Not Sure, Don’t Care)
- *Marbury v. Madison* Case brief ([http://landmarkcases.org/en/landmark/cases/marbury\\_v\\_madison#Tab=Overview](http://landmarkcases.org/en/landmark/cases/marbury_v_madison#Tab=Overview))
- Lesson Powerpoint <https://www.slideshare.net/TylerRichmond1/judicial-review-ppt> (Tyler Richmond, CSUF Writing Center, Fresno State) PowerPoint

- Student copy of Bill of Rights (<https://www.billofrightsinsitute.org/founding-documents/bill-of-rights/>)

Instruction/Demonstration/Procedures: This lesson will feature several components focusing on student-centered discussion through higher-level thinking

- Hook/Engagement: Teacher writes the following statement (or something similarly controversial) on the board: *"I smelled something suspicious in the hallway and everyone's belongings in this class should be searched immediately."* Students will have the option to choose the following 'corners': Agree, Disagree, Don't Care (Students with no dog in the fight -- i.e. they've never done drugs, so go ahead and search), and Undecided/Not Sure. Teacher facilitates discussion of student choices.
- "I Do" - Teacher introduces *Marbury v. Madison* background.
  - Students are asked to "rule" on the case based on what they believe to be fair/just and provide rationale
  - Teacher finishes instruction by sharing the court's decision and direct instruction of Judicial Review (Powerpoint in "Materials and Resources" section).
- "We Do" - Teacher selects 1 amendment of the Bill of Rights and leads class discussion of words that may be ambiguous/unclear and therefore could cause questions related to Constitutional interpretation for the Supreme Court. (i.e in the Second Amendment, what do the words "keep and bear arms" mean?)
- "You Do" - Students are randomly assigned an additional case/section of an amendment from the Bill of Rights and asked to find words that may be ambiguous/unclear and therefore could cause questions related to Constitutional interpretation for the Supreme Court. Students share their answers with the class.
- Extension activity: Students research a Supreme Court case related to student liberties/education and explain the following in a 1-page written assignment: what was the constitutional question involved?; how does it relate to the Constitution?; and how was it ultimately resolved?

Activities:

- Four Corners (lesson opening/"hook")
- Chief Justice: What would you do? (*Marbury v. Madison* background info. student rulings with rationale)
- Direct instruction/discussion of Judicial Review
- Bill of Rights analysis (looking for terms that could be open to future interpretation)
- Independent research (Supreme Court case related to education)

Links with Background Information:

- <http://landmarkcases.org/en/landmark/home> Database for student extension activity research

Assessments/Evaluation: Students write a 3-page opinion paper on a chosen student liberty/rights Supreme Court Cases discussed in class. Students should give a brief description of the case including the outcome (1 paragraph), state if they agree/disagree and why (1 paragraph), and explain how this case could impact their school experiences (1 paragraph).

Additional Resources:

- <https://www.slideshare.net/TylerRichmond1/judicial-review-ppt> (Tyler Richmond, CSUF Writing Center, Fresno State) PowerPoint
- <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/judicialrev.htm> Further background information and questions to consider posing to students related to constitutional interpretation
- [https://archive.nytimes.com/www.nytimes.com/learning/teachers/featured\\_articles/20080915monday.html?scrllybrkr](https://archive.nytimes.com/www.nytimes.com/learning/teachers/featured_articles/20080915monday.html?scrllybrkr) Key cases involving Supreme Court and education
- <https://constitutioncenter.org/blog/10-important-supreme-court-cases-about-education> More key cases involving Supreme Court and education
- <http://lilysblackboard.org/2017/01/supreme-court-affects-classroom-students/> More key cases involving Supreme Court and education
- [Student Rights/Liberties Supreme Court Cases Questions](#) Probing questions to spur discussion related to key cases for use in Socratic Seminar or other student-led grouping configurations

Suggestion for Review or Closure: Teacher-led questioning/review of lesson content. Discussion of current and future issues that may be challenged in the near future with regards to education and the Constitution.

- <https://www.uscranton.com/resources/education/current-issues-in-school-law-facing-school-administrators/#.WyJ0SFVKj3g>
- <https://www.edweek.org/ew/articles/2017/10/04/an-educators-guide-to-the-supreme-courts.html>