

## **Supreme Court Hall of Heroes: Our Flag and the First Amendment**

**Objective:** Students will analyze contemporary situations in their daily lives in which we rely upon the United States Supreme Court and our system of checks and balances to guarantee First Amendment freedoms. Applying principles of the First Amendment, students will conduct a mock Supreme Court hearing and debate the merits of censoring symbolic speech through adherence to the United States Flag Code versus the value of individuals to express patriotism through symbolic speech.

### **Curriculum Standards:**

#### **Common Core Literacy for Social Studies Standards**

- 1.1. Cite specific textual evidence to support analysis of primary and secondary sources.
- 1.2. Determine the central ideas or information of a primary or secondary source; provide an accurate summary of the source distinct from prior knowledge or opinions.
- 1.6. Identify aspects of a text that reveal an author's point of view or purpose.
- 1.7. Integrate visual information (e.g., in charts) with other information in print and digital texts.
- 2.1. Write arguments focused on discipline-specific content; Support claim(s) with logical reasoning and relevant, accurate data and evidence that demonstrate an understanding of the topic or text, using credible sources.
- 2.8. Gather relevant information from multiple print and digital sources.

#### **Oklahoma State C3 Standards for United States History and Government**

- 4.3. Determine the main purposes of the United States government as expressed in the Preamble and as evidenced in the United States Constitution including the principles reflected in the separation of powers, checks and balances, and shared powers between the federal and state governments, and the basic responsibilities of the three branches of government.
- 4.5. 5. Examine the Bill of Rights and summarize the liberties protected in these amendments.

**Grades:** 3-5

### **Resources:**

Powerpoint presentations- "Supreme Court Hall of Heroes"  
and "Our Flag, Patriotism, and the Court"  
Student Handouts- United States Flag Code  
Hall of Heroes Quotations Thinking Guide  
Supreme Court Simulated Hearing

### **Procedure:**

1. Ask students: What is their favorite piece of clothing they like to wear to show their patriotism? Do they have favorite tee-shirts or hats they wear on the Fourth of July? Do they participate in neighborhood or school parades? Do any of their favorite clothes have the American flag on them?
2. Remind students that the United States flag is a symbol of our nation to be respected above all other flags or symbols. Give students a copy of the U.S. flag code. Read through the code's suggestions together, pausing to discuss if any of the students' clothing might be considered disrespectful treatment of the flag. Why or why not? Ask students what message they are

sending when they wear their patriotic clothing with the flag symbol? Is the wearing of particular clothing with symbols sending a message to others? Could this message be considered speech? If so, would that speech be protected by the First Amendment?

3. Ask students if they remember the branch of government whose role is to interpret the Constitution and our Bill of Rights, including the First Amendment. Briefly introduce the concept that the U.S. Supreme Court considers the First Amendment's freedoms in the way that it interprets what the First Amendment means in modern-day life.

4. Use the powerpoint "Supreme Court Hall of Heroes" to review the role of the highest court in our nation regarding the safeguarding of First Amendment freedoms. When presenting the various historic quotes from Supreme Court justices, pause to allow time for students working in pairs to paraphrase each quote and share their paraphrased statements with the class. The student worksheet, Hall of Heroes Quotations Thinking Guide, can be used to note students' efforts of paraphrasing the justices' various perspectives.

5. Conduct a brief class discussion to consider what it means to be a "hero" and how we might consider the Supreme Court to be worthy of the designation of "hero" to the First Amendment.

6. Inform students that each will be assuming a specific role in a mock, or simulated, Supreme Court hearing to discuss whether or not wearing articles of clothing containing the American flag should be permitted. Use the handout "Supreme Court Simulated Hearing" to assign and discuss roles and responsibilities for all class members.

7. Using the powerpoint "Our Flag, Patriotism, and the Court" present the facts of the case to the students. Review the photographs of various patriotic clothing which are forms of evidence from the case and ask students to compare what they see in the photographs with examples from the U.S. Flag Code. Ask students to keep an open mind, avoiding coming to any conclusion about the case at this time.

8. Conduct the mock hearing. Students may wish to dress the part and a special location outside of the regular classroom might lend formality to the hearing. The teacher should keep careful time for all parts of the hearing and subsequent deliberations.

9. After the Chief Justice has announced the court's decision, inform students that the case presented was an imaginary one. Explain to students that the U.S. Supreme Court has already determined the rights of individuals regarding respect of the American flag through a case known as *Texas v. Johnson (1989)*. Inform students that in this case, the Court supported an individual's right to burn the American flag as a form of protected symbolic speech. The court found that the burning of the flag was a political message. However distasteful and offensive to others, it was nevertheless a guaranteed right under the First Amendment. Conduct a brief class discussion answering the question, "Do you agree with the Court's decision regarding flag burning? Why or why not?"

### **Assessment:**

Following the hearing, deliberations, and announcement of the court's decision, each student's understanding of the concepts of protected symbolic speech and the role of the judiciary will be measured through the specific writing task assigned to each role. Students will be encouraged to share their written responses to the class.

# Supreme Court Simulated Hearing: Role and Responsibilities

## The Supreme Court

Roles: eight students will serve as Associate Justices; one student will serve as Chief Justice

Responsibilities: The Chief Justice will keep order in the court during the hearing and preside over the discussion of the case following the hearing. The Associate Justices will listen carefully to the attorneys during the hearing, asking questions. All justices will participate in a discussion following the hearing, arriving at their own decision.

## The Attorneys in the Case

Roles: Two attorneys will represent the school and two attorneys will represent the children.

Responsibilities: One attorney for each side will prepare a one-half page statement explaining their point of view and why they want the court to decide in their favor; the second attorney of each side will be prepared to answer all questions the Supreme Court Justices may ask during the hearing.

## The Media

Roles: The remainder of students will serve as newspaper and television news reporters.

Responsibilities: News reporters will listen carefully to the hearing and will write a one-half page article, summarizing the facts of the case; following the hearing, each news reporter will ask the Justices one question about the case.

## The Hearing

1. The Chief Justice will call the court to order.
2. The first attorney for the children will have three minutes to argue their case. Justices may interrupt at any time with questions to be answered immediately by the second attorney.
3. The first attorney for the school will have three minutes to argue their case. Justices may interrupt at any time with questions to be answered immediately by the second attorney.
4. The attorneys for the children will be given one minute to make their closing arguments to the justices, during which time, no one interrupts.
5. The attorneys for the school will be given one minute to make their closing arguments to the justices, during which time, no one interrupts.
6. The justices will move to a circle of chairs; the attorneys and media will sit in an outer circle around the justices. For 5 minutes, the justices will discuss the case, the arguments they heard, their views of the case, and how it should be determined.
7. For the next 5 minutes, each news reporter will ask the justices one question. The Chief Justice will assign individual justices to respond to the question should no justices volunteer.

## The Decision

1. The Chief Justice will ask all justices to submit their decision (for the children or for the school) on a paper ballot. The Chief Justice will count the ballots and announce the decision.
2. Each justice will write a one-half page decision, explaining why they voted as they did, referring to specific arguments the attorneys made during the hearing.
2. Each attorney will write a one-half page letter to their clients (children or school) explaining the decision and arguments they believe determined the justices' decision.
3. Each member of the media will write a one-half page editorial, describing what they witnessed during the hearing and discussion by justices. The editorials will include the reporter's opinion regarding the court's decision.



## Supreme Court Hall of Heroes: Thoughts on the First Amendment

*Paraphrase the major ideas about our First Amendment Freedoms, as expressed by some of our United States Supreme Court justices...*

Justice:	Quotation:	In My Own Words:
<b>Brandeis</b>	<i>Those who won our independence believed that freedom to think as you will and to speak as you think are means to the discovery of truth.</i>	
<b>Douglas</b>	<i>Restriction of free thought and free speech is the most dangerous of all. It is the one un-American act that could most easily defeat us.</i>	
<b>Kennedy</b>	<i>The right to think is the beginning of freedom, and speech must be protected because speech is the beginning of thought.</i>	
<b>Brennan</b>	<i>If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.</i>	
<b>Jackson</b>	<i>If there is any fixed star in our constitutional constellation, it is that no official can prescribe matters of opinion or faith.</i>	
<b>Marshall</b>	<i>Above all else, the First Amendment means that government has no power to restrict expression because of its message or its ideas...Each individual is guaranteed the right to express any thought.</i>	
<b>O'Connor</b>	<i>If the First Amendment means anything, it means that regulating speech must be a last resort.</i>	

# United States Flag Code

Title 36

## Respect for the Flag:

No disrespect should be shown to the flag of the United States of America;

(a) The flag should never be displayed with union down, except as a signal of dire distress in instances of extreme danger to life or property.

(b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise.

(e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.

(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed on paper napkins or boxes or anything that is designed for temporary use and discard.

(j) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations.

