INTRODUCTION TO THE BILL OF RIGHTS

Introduction:

No unreasonable search and seizure. Freedom of speech. No cruel and unusual punishment. Right to trial by jury. These phrases from the Bill of Rights are often seen by students as just more information to memorize. To truly understand the importance of the protections in the Bill of Rights, students must be asked to apply and discuss the amendments. This lesson is designed to help them do just that—apply the amendments to hypothetical situations and discuss their importance.

Objectives: At the end of this lesson, students will be able to:

- Examine the rights contained in the Bill of Rights.
- Understand that many of the rights are not absolute.
- Identify which part of a particular amendment is related to a specific situation.

Materials and Preparation:

You will need copies of several newspapers for the scavenger hunt. You will also need copies of “The Bill of Rights,” “Bill of Rights Hypotheticals,” “Hazelwood v. Kuhlmeier,” and “Case Study Questions” handouts for all students.

Procedure:

Part I: Newspaper Scavenger Hunt

1. Ask students if they have ever heard or said such phrases as “right to free speech” or “right to trial by jury.” What does the term right mean? Help students define the term. Encourage them to use the dictionary and their own experiences to develop a definition. A dictionary definition that you can use as a reference is “something to which one has a just claim; the power or privilege to which one is entitled.”

2. Remind students that when the Constitution was first proposed, it did not contain a bill of rights—a list of freedoms guaranteed to citizens. However, so many people were concerned about this issue that in order to get the Constitution ratified, its supporters agreed to add a bill of rights as soon as the new government was established. The result was the Bill of Rights—the first ten amendments to the Constitution, which lists rights the government cannot take from the people.

Part II of the lesson is adapted from We the People: Law-Related Lessons on Teaching the Constitution, by Carolyn Pereira, Diana Hess, Ruth Woodruff, Anna Bowie (Chicago: Constitutional Rights Foundation, 1989). Part III is adapted from “Limits to First Amendment Rights,” by Laurel R. Singleton, in Education for Freedom (Denver, CO: First Amendment Congress, 1997).

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3. Distribute the “The Bill of Rights” handout and tell students that it lists the rights protected in the Bill of Rights but does not use the exact wording of the Bill of Rights. Go over it with students to make sure they understand the terminology used.

4. Organize the class into groups of four and give each group several newspapers. Each group should find news stories illustrating at least three of the rights in the Bill of Rights. To ensure diversity, you may want to assign specific amendments to each group (do not include Amendments IX and X). Allow time for students to complete their work.

5. Ask each group to report briefly on its findings. Debrief the discussion using the following questions:

- Which rights seem to have the most impact on our daily lives? Why do you think that is true?
- Which rights were difficult to find represented in the newspaper? What does this suggest to you?
- Were you surprised about how easy or hard it was to find examples of the rights in the Bill of Rights? Explain your answer.
- Is the Bill of Rights important to the people of the United States in their daily lives? Why or why not?

**Part II: Applying the Bill of Rights to Hypothetical Situations**

1. Tell students you are going to give them some additional practice using the Bill of Rights. Distribute the “Bill of Rights Hypotheticals” and have students, working in groups or individually, read each situation and decide if it contains a violation of a right granted by the Bill of Rights.

2. After students have completed the handout, discuss which situations contained violations of the Bill of Rights:

- 1 is a violation of the student’s First Amendment right to free press.
- 2 is a violation of the woman’s Fifth Amendment right protecting her from self-incrimination.
- 3 is not a violation. The principal behaved in a constitutional manner by refusing to violate the student’s First Amendment right of free speech (wearing a political button is considered political speech protected by the First Amendment). If the principal believed the button could cause a riot or seriously disrupt the school, the principal could prevent the student from wearing it.
- 4 is a violation. The Seventh Amendment guarantees the right to a jury trial if requested in civil cases where the value in controversy exceeds $20.00.
- 5 is a violation. The Sixth Amendment guarantees the right to a public trial.
- 6 is not a violation. The police were upholding the teenagers’ First Amendment right to assemble when they refused to arrest the teenagers for standing on the street corner. However, if the group was blocking access to a store or house, police have the right to remove them.
• 7 is not a violation. The Fifth Amendment allows the government to take private property for public use, as long as the owner receives a fair price (called the condemnation of property).

• 8 is a violation. The Fifth Amendment prohibits a person from being tried twice for the same crime.

• 9 is a violation of the First Amendment, which forbids the government from establishing a religion. Religious symbols related to Christmas can be displayed in public places if they are part of a larger display that includes nonreligious symbols.

• 10 is not a violation of the First Amendment. This type of zoning law is constitutional. Local governments have the right to enact reasonable zoning ordinances.

Part III: A Case Study in the Limits on Rights

1. Ask students to consider the consequences of using rights. For example, in hypothetical 1, what might be both positive and negative consequences of the college student’s using his freedom of press? (Positive consequences might be that people would know more about what the mayor is doing, negative consequences for the mayor might be that he loses his job.) What might be positive and negative consequences of the young woman in hypothetical 5 receiving a public trial? (A positive consequence might be a fair trial for the young woman, a negative consequence might be that other people would learn how to build a nuclear warhead or be tempted to sell military secrets.) Ask: If the negative consequences of exercising one’s rights are very serious, would that justify placing limits on rights? Are there any cases in the list of hypotheticals where rights were limited? (Hypothetical 10 limited freedom of speech.)

2. Explain to students that they are going to look at a Supreme Court case related to limits on rights. The case has to do with students’ rights to free press at school. Again organize students into small groups and distribute the “Hazelwood v. Kuhlmeier” and the “Case Study Questions” handouts and have groups read the case description and answer the questions.

3. Ask the groups to report out on their decisions in the case. Then share the actual decision with students:

In the case of Hazelwood School District v. Kuhlmeier, the Supreme Court ruled 5-3 that the principal’s actions in censoring the paper did not violate the students’ First Amendment rights. Since the paper was a school-sponsored publication, the principal could exercise reasonable authority in assuring that the participants learn what the activity is designed to teach, that readers are not exposed to inappropriate material, and that the views of the individual writer are not erroneously attributed to the school. The Court held that the student journalists had not sufficiently mastered the appropriate treatment of controversial issues and the “legal, moral, and ethical restrictions imposed upon journalists within a school community.” Thus, the principal’s decision was reasonable. The dissenting justices argued that censorship is unconstitutional unless the speech “materially disrupts classwork or involves disorder or invasion of the rights of others.”
To conclude the lesson, ask students to write a paragraph analyzing the Supreme Court’s decision in this case. Do they think the potential negative consequences of publishing the stories outweighed students’ freedom of press? Why or why not?

Extension:

1. Challenge students to learn more about the Hazelwood case. The Landmark Cases website sponsored by the Supreme Court Historical Society and Street Law provides excellent resources on the case, including the entire majority opinion and excerpts from the minority opinion (http://www.landmarkcases.org/hazelwood/home.html).

2. Encourage students to read a novel that deals with First Amendment rights of young people. Several possibilities are:

   - *Catch a Tiger by the Toe*, by Ellen Levin (New York: Viking, 2005). This historical novel tells the story of an 11-year-old girl whose parents are suspected of being Communists in the 1950s. Even the newspapers they read are cause for suspicion.
   - *Heart Divided*, by Cherie Bennett and Jeff Gottesfeld (New York: Delacorte Press, 2004). This book deals with a high school in Tennessee whose teams are called the Rebels and play under a Confederate flag. The controversy that erupts around the issue draws in the main character, a girl who has just moved to Tennessee from New Jersey. The book deals with symbols, freedom of speech, tradition, civil rights, and more.
   - *The Last Safe Place on Earth*, by Richard Peck (New York: Delacorte, 1995). This novel provides an example of what can happen when rights conflict. Members of a church protest books read in the local junior high, claiming the books violate their religious beliefs. The parents of a young girl frightened by the stories of a babysitter who belongs to the church believe that the young woman has violated their trust. A reporter on the school paper is frustrated by the editor's refusal to carry stories on topics she believes are important. All of these characters and situations make for a thought-provoking story.
   - *The Ninth Issue*, by Dallin Malmgren (New York: Delacorte Press, 1989). Student journalists led by an inspirational teacher fight to publish their high school newspaper in the face of the administration’s objections to its content.

Resource Person:

To supplement Part I of the lesson, you might have a panel of “ordinary” citizens who do different types of work talk about how the First Amendment impacts their lives. In Part II of the lesson, an attorney can help discuss students’ answers and the rationale for protections granted by each amendment. Make sure students have completed this assignment before the lawyer visits class. If your school has a newspaper, the newspaper advisor and editor could serve as resource people for Part III of the lesson.

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The Bill of Rights

Amendment I
Freedom of religion, separation of church and state, freedom of speech, freedom of the press, freedom of assembly, right to petition the government to correct a wrong.

Amendment II
Right to keep and bear arms.

Amendment III
Right not to be forced to put up soldiers in one’s home in time of peace or in time of war unless legal procedures are followed.

Amendment IV
Freedom from unreasonable searches and seizures of self, home, papers and belongings; no issues of warrants for search and seizure without probable cause.

Amendment V
Right to due process of law when accused of a crime; freedom from being tried for the same crime twice and being forced to testify against oneself; guarantee that one shall not be deprived of life, liberty, or property without due process of law; if private property is taken for public use, the owner has the right to fair compensation.

Amendment VI
Right to a speedy, public, and fair trial, including the right to a lawyer when accused of a crime, the right to have the case heard by an impartial jury, to right to call witnesses and to confront witnesses against him/her.

Amendment VII
Right to a trial by jury in civil cases involving claims of more than $20.

Amendment VIII
Right to fair bail; protection from excessive fines or cruel and unusual punishment.

Amendment IX
Guarantee that the listing of rights in the amendments and other parts of the Constitution do not mean that these are the only rights people have.

Amendment X
Guarantee that powers not given to the United States by the Constitution or not prohibited from the states remain with the states or the people.
Bill of Rights Hypotheticals

Read the following hypothetical situations and decide whether each one contains a violation of the Bill of Rights. For each, write the number of the amendment and the appropriate phrases from the amendment that relate to the situation.

1. A 20-year-old college student starts his own newspaper, which often prints articles making fun of the local mayor. The mayor is angry and gets her aides to take the papers off the stands before they can be distributed.

   Amendment: 1

2. A woman is being tried for murder. The prosecuting attorney forces her to take the stand and testify.

   Amendment: 6
   Phrase: Self-incrimination.

3. A student wears a button to school urging people to vote for a certain candidate. Some students don’t like the candidate and ask the principal to force the student to take off the button. The principal refuses to tell the student to remove the button.

   Amendment: 1
   Phrase: Freedom of speech.

4. A dentist is being sued for $500,000. He wants a jury to hear the case but the judge refuses his request.

   Amendment: 6
   Phrase: Right to trial by jury.

5. A young woman is being tried for treason. She is accused of selling plans for building a nuclear warhead to Iran. The judge believes it would be dangerous to let the public hear her ideas. He refuses to allow anyone to view the trial.

   Amendment: 1
   Phrase: Freedom of speech.

6. A group of teenagers gather quietly on a street corner. Neighbors complain and ask the police to arrest them for getting together as a group. The police refuse.

   Amendment: 1

7. A town needs more land to build a new elementary school. A woman’s property is needed, but she wants to keep it. The town forces her to sell and gives her twice the property’s actual value. She sues to get her land back.

   Amendment: 5
   Phrase: Due process and equal protection.

8. The government tries a man for murder and loses the case. A jury says he is innocent. The district attorney who prosecuted the case is mad and promises to keep trying him until they get a jury to convict him.

   Amendment: 6
   Phrase: Right to a speedy trial.

9. The Postmaster General of the United States has a cross and a nativity scene installed at all Post Offices throughout the country during Christmas time. Government funds are being used to purchase the cross and nativity scene. The mayor of a town demands that the cross and nativity scene be removed from her town.

   Amendment: 1

10. A man living on a quiet residential street erects a giant billboard on his front lawn. The billboard has neon lights advertising a new breakfast cereal that the man invented. The city has a zoning law against this type of sign in a residential neighborhood and demands that it be removed.

   Amendment: 1
   Phrase: Freedom of speech.
Hazelwood v. Kuhlmeier

In a landmark case in 1969 (Tinker v. Des Moines), the Supreme Court held that students do not “shed their constitutional rights at the schoolhouse gate.” In that case, the Court upheld the right of three Iowa students to wear black armbands to school as a way to show their opposition to the Vietnam war. For students’ freedom of speech to be limited, the Court said, the school would need to prove that “engaging in the forbidden conduct would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.”

In the 1980s, the Court did limit student rights at school. In a 1985 case called New Jersey v. T.L.O., the Court gave school officials broad discretion to search students and their belongings, limiting students’ Fourth Amendment rights at school. In a case the next year, the Court ruled that school administrators were within their rights to suspend a student who gave a vulgar speech at a school assembly (Bethel v. Fraser).

But what about the rights of student journalists? In 1983, the staff of the school paper at Hazelwood East High School in St. Louis, Missouri, was working on two major articles. One looked at students’ experiences with sexual activity and pregnancy. This article used false names for girls interviewed about their pregnancies. The other focused on the impact of divorce on teens. It anonymously quoted a student who criticized her parents’ behavior.

The principal of the school objected to these articles. He believed that, despite the false names, one of the girls interviewed might be recognized. He also felt that the material was inappropriate for younger students. Further, he felt the criticized parents should have a chance to respond. He cut the two articles from the paper.

Members of the newspaper staff sued, claiming that their press freedoms had been violated by the principal.
Case Study Questions

1. What right or rights were involved in this case? What amendment protects these rights?

2. What were the benefits of using First Amendment rights in this case?

3. What possible or real negative consequences caused concern?

4. Do you think these consequences were important enough to cause a right to be limited?

5. If so, what limits would you suggest? Try to arrive at a solution to which everyone in your group will agree.

6. List some advantages and disadvantages to your proposed solution.