



## Lesson Plan: Design and Empathy in the Constitution

### Activity Steps:

**Hook:** New Yorker Magazine cover (9/9/09) of youth teaching elderly “texting” language

- Students fill in “6 C’s” worksheet on what they see in the cover
- Discussion of purpose of magazine covers, of what liberal and conservative mean, of the need to identify bias; relate back to liberal and conservative perspectives on death penalty, to antifederalist and federalist positions on government
- Death Penalty Lecture
  - Review the three main themes of the coverage of the Constitution: how does it separate powers, how is it or has it been amended, and what rights does it include for the accused.
  - Discuss that death penalty relates to each of these themes
    - State criminal courts issue death penalty, people can appeal to the Supreme Court
    - Amendments protect death row inmates
    - Most states have a “super due process” that involves many stages before a death row inmate is executed
  - Handout “Trial By Fire” and go over the “6 C’s” of the article
    - Understand that:
      - New Yorker is a somewhat liberal magazine; liberals tend not to favor the death penalty
  - Begin to read the circumstances of the case for death row inmate, Tod Wilingham
  - This will be used throughout the lesson to draw back to the themes of the Constitution and to give students a story to connect to



# CALIFORNIA ON MY HONOR

Curricula for K-12 Civics Education

**Hook:** “What would BdM say?” Give the following scenarios and students have to identify if this is an example of powers being separated and powers being concentrated in one individual.

- A teacher must follow the school district’s rules of time limits on homework. (FEDERALISM)
- A teacher can make a class rule, decide if you have broken it, and give you a consequence when you do break it. (LEG., EX., JUD., concentrated powers)
- The school created the rule of no passes to lockers and security enforces it. (LEG., EX., separated)
- Ms. Baldwin can suspend you, but you have a hearing in front of the school board if you are going to be expelled. (FEDERALISM, JUD., separated)

## – Separation of Powers Review

- Review the Enlightenment philosopher, Baron de Montesquieu, and his beliefs about liberty and separation of powers
- Have students diagram out the powers of each branch of government
- Incorporate into the diagram the way in which the branches check each other
- Federal or State?
  - List out the powers of the federal government and the state governments and have students guess which are given to which level
  - Discuss why the power would be given to the level of government
- “Trial By Fire” connection-
  - States investigate crimes like arson, not the federal government
  - Texas might assign the death penalty in a different way or for different reasons than other states
  - Question: Can we ever correct the mistake of putting an innocent person to death?



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Curricula for K-12 Civics Education

**Hook:** Police Officer Visit: arrange for a local police officer to come to the class and discuss with students the ways in which s/he is bound by the rights of those s/he investigates and/or arrests; have officer discuss how court and judges view officers (are they on the same side?)

- Rights of the Accused Review (Constitutional Protections of Justice PPT)
  - Review the Justinian Code from Ancient Roman times and its protection for the accused and how these accumulate to the English Bill of Rights
  - Review the 4th - 8th Amendments and how they protect someone being accused of a crime
  - “Trial By Fire” connection
    - Wilingham was given a lawyer
    - Had a jury trial
    - Prosecution used their evidence and investigative experts to convict Wilingham
    - Has an appeals process and clemency boards
    - Question: Use of jailhouse informants? Was he a sociopath as experts were claiming? Could he effectively use his power to appeal if he is in jail?



## CALIFORNIA ON MY HONOR

Curricula for K-12 Civics Education

**Hook:** Be flexible or not? Provide students with the following scenarios and ask them if they think the teacher should be flexible or if they think the teacher should not budge.

- Student's phone rings in class. Teacher's policy is to confiscate phones used in class.
  - Student comes in late 3 days in a row. Teacher's policy is to give a detention on third tardy.
  - Student has an unexcused absence on a test day. Teacher's policy is no work can be made up on a day missed due to an unexcused absence.
  - Student curses at and calls another student names. Teacher's policy is to send students behaving inappropriately to the office.
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- Discussion that policies are maybe like principles; some you are able to be flexible on, others not.
- Amendments Review (Amendability PPT)
- Review the philosophy of Federalists and Anti-Federalists and the subsequent compromise to include the amendments to the Constitution
  - Have students connect pictures of the Bill of Rights amendments with the correct amendment and explain the connection
  - Discuss claims that the Constitution is a flexible, or "living" document
  - "Trial By Fire" connection
    - Death penalty supporters and opponents can form groups, write books
    - Center on Wrongful Convictions, Innocence Project
    - [The Death Penalty](#) by Stuart Banner
  - Ability of Wilingham to investigate his case in jail
  - Question: Is the death penalty "cruel and unusual"? Or were there sufficient protections in the other amendments to protect Wilingham?



- Museum Project Work (Museum Project Instructions and Rubric DOCs)
  - Review instructions for the Museum Project
  - Have students write an in-class summary on one of three topics: separation of powers, amendability of Constitution, rights of the accused
    - This will be developed further by the groups for the final draft of the summary
  - Share with students the project model. Go through directions and have students identify whether or not the project fits the description of the instructions.

### **Special Needs of students are considered in this lesson:**

Each of the lesson “hooks” provide for students who are not as academically inclined to have an experience to draw on that relates to the content. The teacher can use the New Yorker article “Trial By Fire” in whatever way will suit the reading level of his/her students best; a summary of the article might be required or students could be instructed to skip over certain parts of the article. Vocabulary could be front-loaded as well.

The museum project will appeal to a wide variety of skill levels and learning aptitudes. Most effective in reaching students of all learning needs will be to provide students with models of the project. In completing the project, kinesthetic learners (who tend to also be the students who struggle in the traditional educational environment) will enjoy the “interactive” piece of the project as this will allow them to create a relevant artifact or envision a computer program that would display the information they want to teach.

### **Extension Ideas:**

Students can research the current status of the death penalty debate in California, particularly over the issue of whether or not lethal injection is “cruel and unusual.” Have students prepare to debate for and against California’s current practice of using lethal injection.