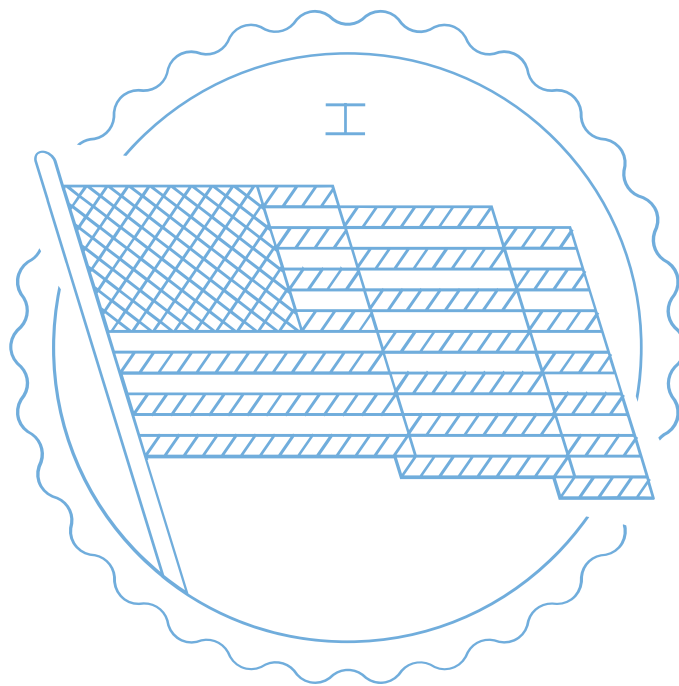




# FIRST AMENDMENT FREE EXERCISE CLAUSE

## LESSON PLAN



## First Amendment: Free Exercise Clause

# Lesson Plan

### GRADE LEVELS:

11th and 12th

### NUMBER OF CLASS PERIODS:

1 (approximately 55 minutes)

### AUTHOR:

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Nick Hegge has taught American History and U.S. Government at Logan View Public Schools in Nebraska since 2010. He graduated from Briar Cliff University, in Sioux City, in 2010, with a bachelor's degree in History and Secondary Education. He works with students as a National History Day advisor, *We the People* coach, and sponsor of the Junior Class trip to Washington D.C. every school year. When teaching about the Constitution, Nick enjoys seeing students wrestle with difficult issues and develop their own conclusions about Constitutional interpretation.

### INTRODUCTION/LESSON OVERVIEW:

The First Amendment has two clauses related to religion, specifically preventing the establishment of religion and the ability to freely exercise religious beliefs. The goal of this lesson is for students to gain a deeper understanding of the Free Exercise Clause of the First Amendment. They will do this by understanding the history of the clause, as well as the relevant Supreme Court cases that will help students interpret how this clause has been applied. Students will also use scholarly essays and the text of the U.S. Constitution to evaluate current issues and cases that involve the Free Exercise Clause.

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### Essential Questions:

- How has the Supreme Court's application of the Free Exercise Clause changed over time?
  - How can we balance the right of religious liberty with laws passed by the elected branches?
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### Objectives:

- Students will understand the Supreme Court standards that have been set in cases dealing with the Free Exercise Clause.
- Students will be able to take the text and history of the Establishment Clause and apply it to current issues.
- Students will be able to understand the modern questions that surround religious liberty.

**Materials:**

- Access to the *Interactive Constitution* (online or mobile app) or printed copies of the Common Interpretation essay “The Free Exercise Clause” by Frederick Gedicks and Michael McConnell
  - <https://constitutioncenter.org/interactive-constitution/amendments/amendment-i/the-free-exercise-clause/interp/32>
- Student Handout 1: Warm-Up Handout (included)
- Student Handout 3: Free Exercise Graphic Organizers (included)
- Access to Constitution Daily Blog (online) or printed copies of the following blog posts:
  - <https://constitutioncenter.org/blog/supreme-court-rules-in-obamacare-challenge-case/>
  - <https://constitutioncenter.org/blog/supreme-court-rules-for-baker-in-wedding-cake-dispute>

**Procedures:****1. Warm Up**

Student will begin by reading over the text of the Free Exercise Clause. They will then read the scenarios presented on the Warm-Up handout and answer the first question, “Do you think this violates the Establishment Clause based on the text of the Amendment?”

**2. Preparing for Group Activity**

The teacher should introduce the text of the Free Exercise Clause from the First Amendment and discuss why the Framers of the U.S. Constitution thought such text was necessary. The teacher can use this excerpt from the *Interactive Constitution*:

“During colonial times, the Church of England was established by law in all of the southern colonies, while localized Puritan (or “Congregationalist”) establishments held sway in most New England states. In those colonies, clergy were appointed and disciplined by colonial authorities and colonists were required to pay religious taxes and (often) to attend church services. Dissenters were often punished for preaching without a license or refusing to pay taxes to a church they disagreed with. Delaware, New Jersey, Pennsylvania, Rhode Island, and much of New York had no established church.

After Independence, there was widespread agreement that there should be no nationally established church. The Establishment Clause of the First Amendment, principally authored by James Madison, reflects this consensus. The language of the Establishment Clause itself applies only to the federal government (“Congress shall pass no law respecting an establishment of religion”). All states disestablished religion by 1833, and in the 1940s the Supreme Court held that disestablishment applies to state governments through the Fourteenth Amendment.”

**3. Jigsaw Activity**

Students should be divided into four groups, each group representing one of the Supreme Court cases discussed in the Free Exercise graphic organizer. Once in their groups, students should receive the graphic organizer and the excerpt of the common interpretation essay that corresponds to their court case.



Once students have read their excerpts and completed their portion of the graphic organizer, they will get into new groups made up of one expert from each case and fill in the remainder of the graphic organizer with their new team members.

After completing all four areas of the graphic organizer, students will revisit the scenarios listed in the Warm-Up Handout. They should answer, “Do you think this violates the Free Exercise Clause based on the scholars’ interpretation?” and discuss their answers with their group.

#### **4. Small Group Activity**

Students will either return to their original groups or choose partners to read and discuss the two blog posts relating to the scenarios on the Warm-Up handout. After reading the posts, they will answer and discuss the final question on the handout, “How did the Supreme Court rule on this case?”

#### **5. Wrap-up/Conclusion**

Exit Ticket: Students will answer the question, “Do you agree with the Court’s ruling? Why or why not?” before leaving class. As an extension activity, students can also read the Maters of Debate essays for the Free Exercise Clause and the class can participate in a civil dialogue on issues involving religion and the First Amendment.



# Warm-Up

**Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...**

## Scenario 1

A family owned for-profit company wants an exemption from a federal healthcare requirement that they provide coverage for medicines or procedures that violate the company's religious beliefs. Can the company receive an exemption?

**Do you think this violates the Establishment Clause based on the text of the First Amendment?**

**Do you think this violates the Establishment Clause based on the scholars' interpretation?**

**How did the Supreme Court rule on this case?**

## Scenario 2

A baker refuses to bake a wedding cake for a same-sex marriage citing deeply held religious beliefs and a violation of free speech. The state punishes the baker for violating state anti-discrimination laws. Is the baker required to make the wedding cake?

**Do you think this violates the Establishment Clause based on the text of the First Amendment?**

**Do you think this violates the Establishment Clause based on the scholars' interpretation?**

**How did the Supreme Court rule on this case?**

# Free Exercise Clause Graphic Organizer

## Reynolds v. United States (1878)

Issue/Question:

Standard Set:

Effect on Free Exercise:

## Wisconsin v. Yoder (1972)

Issue/Question:

Standard Set:

Effect on Free Exercise:

## Employment Division v. Smith (1990)

Issue/Question:

Standard Set:

Effect on Free Exercise:

## RFRA/RLUIPA

Issue/Question:

Standard Set:

Effect on Free Exercise:

# Common Core Standards

## Addressed in this Lesson Plan:

### History/Social Studies

#### **CCSS.ELA-LITERACY.RH.11-12.1**

Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

#### **CCSS.ELA-LITERACY.RH.11-12.2**

Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.

#### **CCSS.ELA-LITERACY.RH.11-12.4**

Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines *faction* in *Federalist* No. 10).

#### **CCSS.ELA-LITERACY.RH.11-12.10**

By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

### Speaking and Listening

#### **CCSS.ELA-Literacy.SL.11-12.1**

Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

#### **CCSS.ELA-Literacy.SL.11-12.2**

Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

#### **CCSS.ELA-Literacy.SL.11-12.3**

Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

#### **CCSS.ELA-Literacy.SL.11-12.4**

Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

#### **CCSS.ELA-Literacy.SL.11-12.6**

Adapt speech to a variety of contexts and tasks, demonstrating a command of formal English when indicated or appropriate.

