

Supreme Court: Practice with Precedents

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About this Lesson

Practice with Precedents is a lesson designed to familiarize students with the methods by which the Supreme Court of the United States reviews cases brought before it. The lesson begins with a warm up activity that will introduce students to the concept of precedents. Students will then participate in an activity in which they will review hypothetical court cases, discuss their constitutional connections and how the Court might rule based on the precedent.

Grade(s) Level

9-12

Classroom Time

45 minutes class period

15 minutes of next period OR

60 minutes of a block period

Materials

- Copies of the United State Constitution: Available at: <http://www.constitutioncenter.org/constitution/constitution.pdf>

Supreme Court Cases Sheet

Cases for Review Sheet

Practice with Precedents
Matching Sheet

Background

Written in 1787, Article III, Section 1 of the Constitution provides that "the judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish," and lays the foundation for the Supreme Court of the United States, which was subsequently organized on February 2, 1790.

The judicial Power referred to in Article III, Section 1 "extend[s] to all Cases, in Law and Equity, arising under [the] Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

The Supreme Court of the United States is therefore the highest judicial body in the United States. It currently consists of the Chief Justice of the United States and eight Associate Justices, who are nominated by the President and confirmed with the "advice and consent" (majority vote) of the Senate, though the number of justices can vary.

The Supreme Court reviews cases and interprets the constitutional aspects of them. Its rulings set precedents which establish principles or rules that are binding, to which all lower courts must adhere when reviewing similar cases. Similarly, the Supreme Court has the power to overturn previous rulings and set new precedents.

Objectives

Students will:

- Understand the concept of precedent.
- Be able to match precedents to hypothetical court cases.
- Find constitutional connections in all cases examined for the lesson.

Warm Up: (10-15 mins)

1. Place the following instructions on the board or screen:

Think about traditions you observe in your family. Perhaps you always have spaghetti on Friday. Maybe you spend every Thanksgiving at a particular family member's house. Write down three traditions you observe in your home and reflect on how they came to be.

2. Ask students to share some of their traditions aloud:

- Ask them to explain why these traditions exist.
- Ask them to discuss what would happen if they broke tradition.
- What circumstances would require that to happen?

3. Share with students that traditions, much like the ones they shared, often begin with a "precedent" that begins the practice of doing things in a certain way, and that this is evident in many different areas of our lives, including our government.

- George Washington was the first to pronounce the words, "so help me God," after his oath of office—other presidents have since followed in his footsteps.
- John Adams was the first to receive the oath of office from the Chief Justice of the United States—as has every president since.
- John Tyler was the first vice president to assume the presidency after the death of President William Henry Harrison, (after much controversy surrounding the interpretation of Article II, Section 1 of the Constitution).

4. Explain that the Supreme Court operates similarly. Explain that it is no different, and that the majority opinion or ruling on a single case sets the "precedent" for how all lower courts will interpret the Constitution in regards to similar cases that come before them.

5. Provide students with a brief explanation of *Marbury v. Madison*, which established that federal courts have the ability to declare laws unconstitutional. Explain that this case set the precedent for the Supreme Court to be able to set precedents.

Activity:

Part 1 (30 mins):

Divide your students into groups of 4-5. Provide each group with a different Supreme Court case (1 of 6 on included "Supreme Court Cases" sheet) and Pocket Constitution. Ask them to familiarize themselves with their case, finding the issues or constitutional question within it, i.e. amendment or article to which the case pertains. Each group will then designate one member to "present" his or her case to the entire class, explaining the constitutional issues, the ruling and the precedent set by it. Have the class take notes on each case they hear.

Part 2: (15 mins) May be done as a warm-up the following class period, to review and refresh students' minds about what they learned about precedents the previous day, or as a culminating practice activity after the presentations, if time allows.

Armed with their new knowledge of precedents and actual Supreme Court cases, students will play a matching game in order to practice the concept of precedents. They will separate from their groups and individually study the "Cases for Review" sheet. They will then match each case with the precedent which applies to it on the "Practice with Precedents" table included in this lesson plan. They will then decide if they would uphold or reverse the precedent, if given the opportunity, and explain why.

Alternative Procedures

You may also create a larger version of this game with your students' help, and play as a class.

You may also project the sheet onto the screen in the room and fill it out electronically together.

Assessment-Options

- Students can research a particular Supreme Court case and make a presentation for the class—emphasizing the precedent set and citing example cases which were determined by it.
- Students can research cases that overturned Supreme Court precedents, referring to the justices' written opinions, and citing the constitutional connections which caused them to reverse the previous decision.

Extension Activity

- Visit www.scotusblog.com daily with your class to find out what's happening in the Supreme Court. As a class, pick a case to follow together. Have students do individual research into the background of the case. Choose a different student daily to update the class on the progress of the case they are all watching.
- You may also ask students to keep their groups from the *Practice with Precedents* activity. Ask each group to visit www.scotusblog.com to find out what the Court is hearing daily. Have them use this resource to choose one case on which they will be prepared to update the class every period. In this manner, the class can follow more than one case at a time.

Supreme Court Cases*

Directions: Identify the constitutional question presented by each of these cases. Refer to your copy of the Constitution to find the answers.

1. Gideon v Wainwright:

Facts of the Case: Gideon was charged in a Florida state court with a felony for breaking and entering. He lacked funds and was unable to hire a lawyer to prepare his defense. When he requested the court to appoint an attorney for him, the court refused, stating that it was only obligated to appoint counsel to impoverished defendants in capital cases. Gideon defended himself in the trial, and was convicted by a jury and the court sentenced him to five years in a state prison.

Conclusion: In a unanimous opinion, the Court held that Gideon had a right to be represented by a court-appointed attorney and, in doing so, overruled its 1942 decision of *Betts v. Brady*. In this case the Court found that the Sixth Amendment's guarantee of counsel was a fundamental right, essential to a fair trial, which should be made applicable to the states through the Due Process Clause of the Fourteenth Amendment. Justice Black called it an "obvious truth" that a fair trial for a poor defendant could not be guaranteed without the assistance of counsel. Those familiar with the American system of justice, commented Black, recognized that "lawyers in criminal courts are necessities, not luxuries."

2. Miranda v. Arizona

Facts of the Case: In March 1963, Ernesto Arturo Miranda was arrested for robbery. He later confessed to raping an 18 year old woman two days previously. Miranda, however, was never informed that he had the right to remain silent prior to his interrogation. At trial, prosecutors offered not only his confession as evidence, but also the victim's positive identification of Miranda as her assailant. Miranda was convicted of rape and kidnapping and sentenced to 20 to 30 years imprisonment on each charge, with sentences to run concurrently. The Court was called upon to consider the constitutionality of cases in which defendants were interrogated without notification of their right to counsel.

Conclusion: The Court held that prosecutors could not use statements stemming from interrogation of defendants unless the detained were informed of their rights prior to questioning. The Court specifically outlined the necessary aspects of police warnings to suspects, including warnings of the right to remain silent and the right to have counsel present during interrogations.

3. Regents of University of California v. Bakke

Facts of the Case: Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of California Medical School at Davis. He was rejected both times. The school reserved sixteen places in each entering class of one hundred for "qualified" minorities, as part of the university's affirmative action program, in an effort to redress longstanding, unfair minority exclusions from the medical profession. Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years Bakke's applications were rejected. Bakke contended, first in the California courts, then in the Supreme Court, that he was excluded from admission solely on the basis of race.

Conclusion: There was no single majority opinion. Four of the justices contended that any racial quota system supported by government violated the Civil Rights Act of 1964. Justice Lewis F. Powell, Jr., agreed, casting the deciding vote ordering the medical school to admit Bakke. However, in his opinion, Powell argued that the rigid use of racial quotas as employed at the school violated the equal protection clause of the Fourteenth Amendment. The remaining four justices held that the use of race as a criterion in admissions decisions in higher education was constitutionally permissible. Powell joined that opinion as well, contending that the use of race was permissible as one of several admission criteria. So, the Court managed to minimize white opposition to the goal of equality (by finding for Bakke) while extending gains for racial minorities through affirmative action.

4. Tinker v. Des Moines

Facts of the Case: John Tinker, 15 years old, his sister Mary Beth Tinker, 13 years old, and Christopher Eckhardt, 16 years old, decided along with their parents to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday season. Upon learning of their intentions, and fearing that the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings and Christopher wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day.

Conclusion: The wearing of armbands was "closely akin to 'pure speech'" and protected by the First Amendment. School environments imply limitations on free expression, but here the principals lacked justification for imposing any such limits, and failed to show that the forbidden conduct would substantially interfere with appropriate school discipline.

5. Loving v. Virginia

Facts of the Case: In 1958, two residents of Virginia, Mildred Jeter, a black woman, and Richard Loving, a white man, were married in the District of Columbia. The Lovings returned to Virginia shortly thereafter. The couple was then charged with violating the state's antimiscegenation statute, which banned inter-racial marriages. The Lovings were found guilty and sentenced to a year in jail (the trial judge agreed to suspend the sentence if the Lovings would leave Virginia and not return for 25 years).

Conclusion:

In a unanimous decision, the Court held that distinctions drawn according to race were generally "odious to a free people" and were subject to "the most rigid scrutiny" under the Equal Protection Clause. The Virginia law, the Court found, had no legitimate purpose "independent of invidious racial discrimination." The Court rejected the state's argument that the statute was legitimate because it applied equally to both blacks and whites and found that racial classifications were not subject to a "rational purpose" test under the Fourteenth Amendment.

5. Brown v. Board of Education

Facts of the Case:

Black children were denied admission to public schools attended by white children under laws requiring or permitting segregation according to the races. The white and black schools approached equality in terms of buildings, curricula, qualifications, and teacher salaries.

Conclusion:

It was found that despite the equalization of the schools by "objective" factors, intangible issues foster and maintain inequality. Racial segregation in public education has a detrimental effect on minority children because it is interpreted as a sign of inferiority. The long-held doctrine that separate facilities were permissible provided they were equal was rejected. Separate but equal is inherently unequal in the context of public education. The unanimous opinion ushered in the end of all forms of state-maintained racial separation.

6. New Jersey v. T.L.O.

Facts of the Case: T.L.O. was a fourteen-year-old; she was accused of smoking in the girls' bathroom of her high school. A principal at the school questioned her and searched her purse, yielding a bag of marijuana and other drug paraphernalia.

Conclusion: The Court abandoned its requirement that searches be conducted only when a "probable cause" exists that an individual has violated the law. The Court used a less strict standard of "reasonableness" to conclude that the search did not violate the Constitution. The presence of rolling papers in the purse gave rise to a reasonable suspicion in the principal's mind that T.L.O. may have been carrying drugs, thus, justifying a more thorough search of the purse.

*"Cases-All Terms." *Oyez*. 11 09 2009. U.S. Supreme Court Media, Web. 8 Dec 2009.

Cases for Review

Directions: Review the following cases, and identify the constitutional question involved. Next, match the case to the Supreme Court precedent which applies to it in the table on the worksheet provided.

1. Jernigan v. Flowertown School District

Facts of the Case: High school student Eliza Jernigan decided that in protest to the wars in Iraq and Afghanistan, she would stand up in every one of her classes instead of remaining seated. She maintained that she was "standing up" for the rights of all soldiers to be delivered safely home to their families. After numerous attempts to get Jernigan to remain seated, the principal suspended her indefinitely pending she agreed to return to class and remain in her desk, claiming that the standing was a distraction to others in the class attempting to focus and learn. Jernigan maintained the suspension was a violation of her right to free speech.

2. Patel v. School District of Philadelphia

Facts of the Case: Upon realizing that there were three openings in the English department at the high school near his home, Dev Patel applied for a teaching job with the School District of Philadelphia. Dev was told that two of the three spots were reserved for African American applicants, and that he and applicants of all other races would be competing for the one remaining spot. Dev sued the school district maintaining that the policy reduced his chances of getting the job by two-thirds, an unconstitutional act of discrimination.

3. Crawford v. Justice of the Peace Broadwell

Facts of the Case: When Beth Crawford, an African American, went to Justice of the Peace Kevin Broadwell to be married to her white boyfriend, Terry McCann, they were turned away. Broadwell said that it was his personal preference not to marry interracial couples. Crawford and her boyfriend asserted that this was a violation of the 14th amendment. Broadwell maintained that he thought the couples should have the right to marry, but that he did not want proceed over such ceremonies. Broadwell asserted that Crawford and her boyfriend could obtain a marriage license from any other Justice of the Peace, and that he had the right to choose the ceremonies over which he presides.

4. Dennis v. State of Texas

Facts of the Case: Jordana Dennis was arrested robbing a deli with best friend and accomplice Gail Washington. Upon arrest Dennis and Washington were placed in separate rooms and interrogated. Each woman was told the other woman had confessed to the crime, even though neither had—which resulted in actual confessions from each detainee. The officers in charge never told the women that they could wait until their attorney was present to respond to their questions, and instead told the women that their sentences would be extended for lack of cooperation. Dennis and Washington's confessions were used in a court of law and resulted in 15 year jail sentences for each. Dennis sued the state of Texas for neglecting to read the women their rights.

5. Roker v. Kentucky

Facts of the Case: High School senior Alvin Roker was detained by school officials after walking down the hall and alerting drug dogs patrolling campus. Since the dogs were trained to pick out the scent of marijuana, Roker's belongings were searched by police officers handling the canines. They found and confiscated a pipe that was purported to have contained marijuana resin, a residue left behind from smoking the drug. Roker maintained that the search and seizure was a violation of his right to privacy. The school maintained that they had the right to protect the safety of its students and keep their campus drug free.

6. Malek v. State of New York

Facts of the Case: After the attacks on New York City in 2001, many Muslim students in a suburban NYC school district were subjected to severe verbal threats and abuse by various members of the student body. In one incident, a student was ambushed in the school parking lot and severely beaten with a tire-iron. In an effort to protect his Muslim students, the principal decided to relegate them to portable units on campus in order to quarantine them from the threat of their angry peers until it dissipated. Students were administered the same curriculum by the same teachers of the other students, however student Amin Malek sued the school citing that separate but equal was unconstitutional. The principal maintained that it was well in his constitutional rights to do what was necessary on his campus to ensure the safety of his students.

Practice with Precedents: Matching Activity

Directions: After reviewing all cases in the Cases for Review sheet, match each one to the precedent that is most relevant to the issues involved. Imagine that you are a justice on the Supreme Court hearing each of the hypothetical cases. Would you uphold the precedent or attempt to reverse it. Yes or No? and why.

Precedent	Case	Uphold Precedent?
Gideon v. Wainwright		
Miranda v. Arizona		
Bakke v. Regents of University of California		
Tinker v. Des Moines		
Loving v. Virginia		
Brown v. Board of Education		
New Jersey v. T.L.O.		

National Standards for Social Studies:

Standard I: Culture

- a. analyze and explain the ways groups, societies, and cultures address human needs and concerns
- c. apply an understanding of culture as an integrated whole that explains the functions and interactions of language, literature, the arts, traditions, beliefs and values, and behavior patterns

Standard IV: Individual Development & Identity

- a. articulate personal connections to time, place, and social/cultural systems

Standard V: Individuals, Groups, & Institutions

- c. describe the various forms institutions take, and explain how they develop and change over time
- e. describe and examine belief systems basic to specific traditions and laws in contemporary and historical movements

Standard VI: Power, Authority & Governance

- a. examine persistent issues involving the rights, roles, and status of the individual in relation to the general welfare
- b. explain the purpose of government and analyze how its powers are acquired, used, and justified

Standard X:

- a. explain the origins and interpret the continuing influence of key ideals of the democratic republican form of government, such as individual human dignity, liberty, justice, equality, and the rule of law
- b. identify, analyze, interpret, and evaluate sources and examples of citizens' rights and responsibilities
- e. analyze and evaluate the influence of various forms of citizen action on public policy