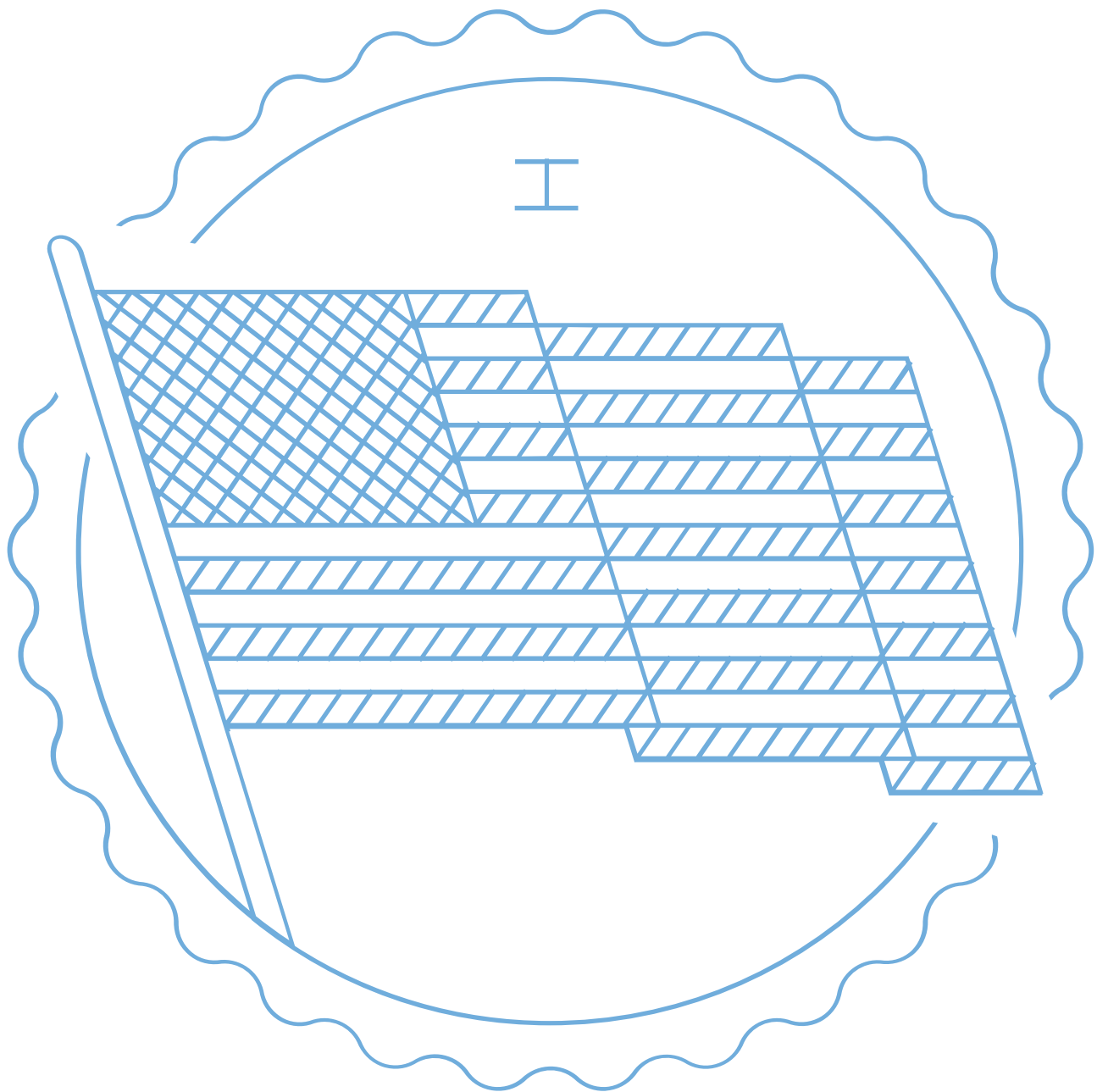


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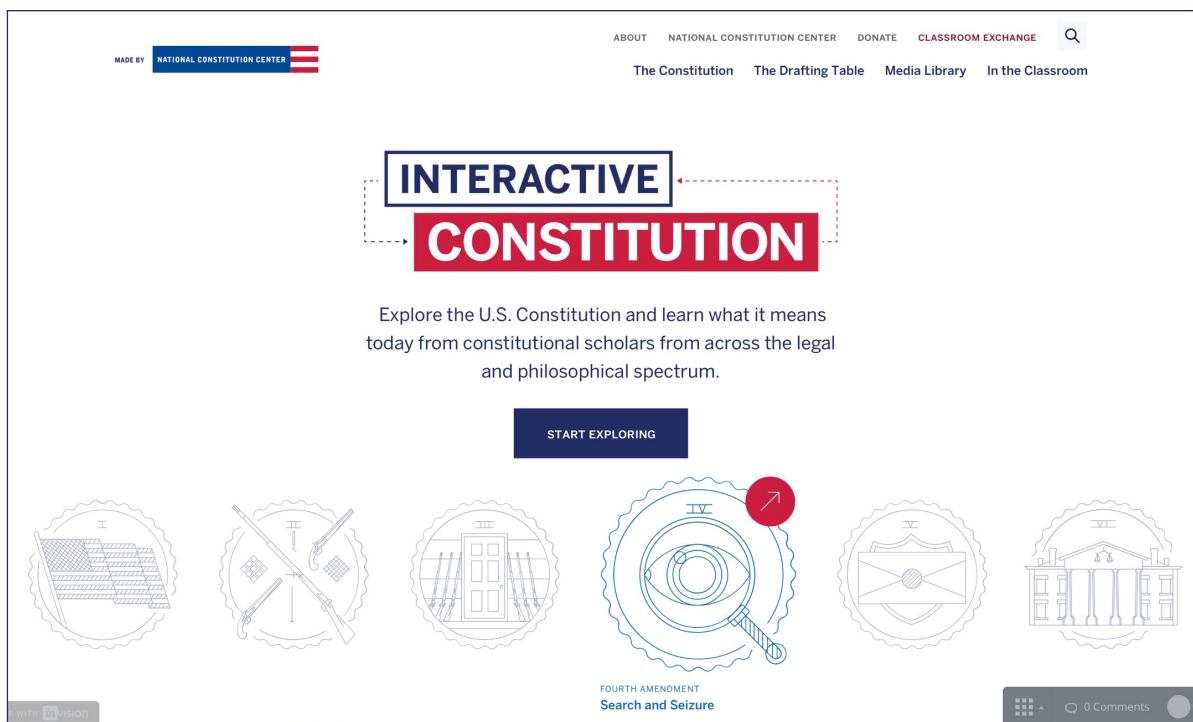
CONSTITUTION

The First Amendment Plan of Study



The First Amendment Project

The National Constitution Center and the College Board collaborated to create the *Interactive Constitution: The First Amendment Project*, an online tool that assists educators in teaching the First Amendment to high school students across the country. In creating this tool, the two institutions are working to ensure high school graduates have a command of the First Amendment before they enter college and the workforce.



<https://constitutioncenter.org/interactive-constitution>

About

The First Amendment Project

A student is not prepared for citizenship without an understanding of the First Amendment and command of the freedoms it protects. Knowledge of the Constitution is an essential component to every young American's learning experience. Yet across America, understanding of the historical, philosophical, and constitutional principles underlying the First Amendment is in critical need. **The First Amendment Project** is a new classroom initiative to examine the First Amendment through a nonpartisan, constitutional lens; to ask students to think critically about what the Founding generation intended when writing the amendment; and to build deep understandings of how the amendment has influenced modern constitutional debates. The project provides classrooms with a two-week plan of study that helps teachers introduce each of the four clauses of the First Amendment, discuss the concepts in a modern context, and examine scholarly debates surrounding their interpretation. The materials supplement overall classroom instruction with videos, lesson plans, activities, podcasts, and resources to learn about the First Amendment. The foundational tool in this project is the National Constitution Center's **Interactive Constitution** (IC). The IC supplies classrooms with essays on the Constitution from legal scholars, exploring areas of agreement and disagreement about nearly every clause of the Constitution. The plan of study also incorporates the Center's **Writing Rights** interactive tool, allowing students to compare and contrast primary source material to evaluate the relationships between Founding Era legal texts, James Madison's draft proposals for a bill of rights, and congressional variations of what would become the First Amendment. This project is a starting point to introduce another initiative from the National Constitution Center: **Constitutional Exchanges**, where students participate in online discussions with peer classrooms across the country about constitutional provisions that affect Americans' everyday lives.

The College Board/National Constitution Center Citizenship Readiness Initiative

The College Board and the National Constitution Center have teamed up on the development of this vital initiative to introduce students to a closer inspection of the First Amendment through civil dialogue. Throughout the two-week plan, students will read the *Interactive Constitution's* "Common Interpretation" essays on the First Amendment, which present the history and Supreme Court cases relating to each of the five freedoms of the First Amendment: religion, speech, press, assembly, and petition. After each lesson on one of the five freedoms, students will engage in a healthy, civil, and thought-provoking discussion based on scholarly "Matters of Debate" essays around significant First Amendment questions. Through this innovative, two-week unit plan, all Advanced Placement students will be introduced to the best arguments on all sides of the ideological spectrum pertaining to fundamental First Amendment issues, preparing them to participate in informed, civil discourse based on constitutional reasoning—rather than passion and politics—that will secure the future of American democracy.





The Interactive Constitution: America's Leading Platform for Constitutional Education

The *Interactive Constitution* is a free, online tool that delivers scholarship from top constitutional experts right to classrooms. It allows students to explore the history behind each article, section, and amendment of the U.S. Constitution. For each part of the Constitution, a different pair of legal scholars reaches across the partisan divide to co-author a "Common Interpretation" essay explaining the areas in which they agree—including historical origins and analysis of relevant Supreme Court opinions. Then, the same scholars write individual "Matters of Debate" essays outlining leading viewpoints across a range of perspectives on how that part of the Constitution can or should be interpreted going forward. The *Interactive Constitution's* nonpartisan foundation and ideologically balanced opinions help teachers and students have informed, respectful, up-to-date discussion about the Constitution.

For more information on the

Interactive Constitution: constitutioncenter.org/constitution

Writing Rights: constitutionalrights.constitutioncenter.org/app/home/writing

Classroom Exchanges: constitutioncenter.org/learn/constitutional-exchanges

Constitution in the Classroom

The National Constitution Center brings innovative teaching tools to your classroom. Our unique approach to constitutional education emphasizes historical foundations through storytelling, constitutional questions, and civil dialogue and reflection.

How We Teach the Constitution

The National Constitution Center's approach provides a strong foundation in Founding stories and judicial interpretations of the Constitution; teaches learners of all ages to separate political views from constitutional views, asking not what the government should do but what it constitutionally may do; and teaches students to think like constitutional scholars by providing platforms to support civil dialogue within classrooms and across communities.



The First Amendment

Plan of Study

Unit Calendar:

Promoting Citizenship Readiness via Civil Dialogue

Unit Objective:

Students will analyze primary and secondary source documents via the *Interactive Constitution* to discuss and evaluate the common and divergent viewpoints on the First Amendment of the Constitution from legal scholars, the Founding generation, and fellow students through a civil dialogue that allows students to determine their own points of view and why they hold those viewpoints.

Enduring Understanding:

EU: LOR-2: Provisions of the Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.

EU: LOR-3: Protections of the Bill of Rights have been selectively incorporated by way of the 14th Amendment's due process clause to prevent state infringement of basic liberties.

EU: CON-6: The Supreme Court's interpretation of the U.S. Constitution is influenced by the composition of the Court and citizen-state interactions. At times, it has restricted minority rights and, at others, protected them.

Topical/Unit EQ:

- How has the First Amendment been interpreted to balance government power and individual rights?
- To what extent have Supreme Court interpretations of the First Amendment reflected a commitment to individual liberty?
- In what ways do legal scholars agree and disagree about First Amendment protections?



Learning Objectives

- Students will be able to compare and contrast scholars' varying viewpoints on the clauses of the First Amendment.
- Students will be able to generate articulate position statements in response to First Amendment constitutional questions.

Freedom of Speech

- Students will be able to analyze controversies involving the First Amendment provision protecting freedom of speech.
- Students will be able to evaluate competing interpretations of the First Amendment provision protecting freedom of speech.
- Students will be able to apply varying interpretations of the First Amendment provision protecting freedom of speech to controversial issues involving speech.
- Students will be able to identify high and low value varieties of speech.
- Students will be able to identify conditions under which speech can be limited.

Freedom of the Press

- Students will be able to analyze controversies involving the First Amendment provision protecting freedom of press.
- Students will be able to apply varying interpretations of the First Amendment provision protecting freedom of press to controversial issues involving speech.
- Students will be able identify conditions under which press can be limited.

Freedom of Religion

Establishment Clause

- Students will understand the types of cases that most often raise issues addressed by the Establishment Clause.
- Students will understand how the interpretation of the Establishment Clause has developed over time and the cases that led to the changes.
- Students will be able to take the text, history, and interpretation of the Establishment Clause and apply it to current issues.
- Students will be able to understand the current questions that surround religious freedom rights.

Freedom of Religion

Free Exercise Clause

- 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 Free Exercise Clause and apply it to current issues.
- Students will be able to understand the modern questions that surround religious liberty.

Assembly and Petition

- Students will understand the historical significance of the rights to assemble and to petition.
- Students will be able to compare and contrast the viewpoints of constitutional scholars relating to the rights to assemble and to petition.
- Students will be able to participate in a civil dialogue about the rights to assemble and to petition in the modern era.
- Students will be able to evaluate their own understanding of the rights to assemble and to petition.
- Students will be able to formulate ways the rights to assemble and to petition can be used by citizens in the modern era.

Required AP U.S. Government & Politics Supreme Court Cases:

The following is a list of the Supreme Court cases that are required by the AP U.S. Government and Politics course. It does not include all cases addressed in The First Amendment Project Plan of Study. Links to additional cases can be found within the essays, videos, lesson plans, and podcasts hosted on the *Interactive Constitution*.

- *Engel v. Vitale* (1962)
- *Tinker v. Des Moines Independent Community School District* (1969)
- *New York Times Co. v. United States* (1971)
- *Schenck v. United States* (1919)
- *Citizens United v. Federal Election Commission* (2010)



The First Amendment Plan of Study

Snapshot

Day 1

Preparation for Class: View First Amendment Overview Videos
Introduction to the First Amendment, overview day
Historical Foundations

Day 2

Civil Dialogue Primer

Day 3

Preparation for Class: Watch Speech and Press Videos
Freedom of Speech

Day 4

Freedom of the Press

Day 5

Civil Dialogue on Speech and Press

Day 6

Preparation for Class: Watch Religion Videos
Freedom of Religion: Establishment Clause

Day 7

Freedom of Religion: Free Exercise Clause

Day 8

Civil Dialogue on Freedom of Religion

Day 9

Assembly and Petition Clause

Day 10

Constitutional Exchanges



Day 1

Introducing the First Amendment

The First Amendment Project begins with the introduction of the First Amendment and the understanding of “Freedom of Conscience.” Through educational videos, specifically developed for this plan of study, students will engage with deep and fundamental understanding of this freedom. Highlighted in this video are National Constitution Center President and CEO Jeffrey Rosen and U.S. Supreme Court Associate Justice Elena Kagan who tell the story of the First Amendment to students—its protections and its safeguards—and how the Supreme Court, legal scholars, and citizens have interpreted it over time. This introduction teaches students about today’s legal discourse surrounding the First Amendment by highlighting areas of common interpretation and debate.

The associated classroom materials engage students in examining primary sources that record the development of the First Amendment through the *Writing Rights* interactive. This tool presents students with James Madison’s original proposals for what became the First Amendment—as well as the legal texts that preceded Madison’s drafts and the revisions to Madison’s proposals made by the First Congress. Day 1 lays the groundwork for later classes by helping students to build understandings of the relationships between the freedoms protected by the First Amendment. The lesson plan also demonstrates for the students that disagreement about the interpretation of the First Amendment is as old as the amendment itself, while modelling the ability to reach consensus on contentious questions. In subsequent lessons, students will focus deeply on the individual clauses of the amendment.

Constitutional Questions

- What are the five freedoms protected by the First Amendment?
- In what ways do the five freedoms protect the core elements of American democracy?
- What values do the five freedoms protect?

Preparation for Class: View First Amendment Overview Videos

Day 2

Civil Dialogue Primer

A fundamental aspect of the First Amendment Project is civil dialogue. Materials are provided to empower students to have and host civil dialogues. The Day 2 lesson begins with a video of U.S. Supreme Court Associate Justice Stephen Breyer talking about what it means to have a civil dialogue and how the justices of the Supreme Court keep their deliberations civil and productive—even with some of the most difficult cases. Students use this video lesson to establish classroom norms for discussion, creating a foundation for conducting their own civil dialogue. Then they are ready to engage in specific content and civil dialogues on the clauses of the First Amendment. On Day 3 they will begin by exploring Freedom of Speech.



Day 3 Freedom of Speech

On Day 3 students examine the historical context and the drafting of the First Amendment by examining the motivations of what the Founding generation. Students will also examine various types of “speech,” such as symbolic speech, hate speech, and political speech, to address the scope of protections promised by the First Amendment and learn that speech can only be limited when it is intended to and likely to cause imminent violence. In each instance, students will explore when the government has some authority to restrict speech; areas of consensus among scholars, judges, and citizens; the strongest constitutional arguments on each side of contested issues; and U.S. Supreme Court cases that have addressed free speech rights. Students will use the National Constitution Center’s *Interactive Constitution* to look at the viewpoints of legal scholars on free speech, where they agree and where there are matters of debate. This lesson pairs with the lesson on Day 4 (Freedom of the Press) to prepare students for a civil dialogue on Day 5.

Constitutional Questions

- When and why can the government limit speech—and when can’t it?
- Does the First Amendment protect hate speech?
- Why does the First Amendment of the U.S. Constitution protect Freedom of Speech?
- Can the government limit certain expressive behaviors, like flag burning?
- How has the protection of speech changed over time?

Preparation for Class: Watch Speech and Press Videos

Day 4 Freedom of the Press

Students explore the scope and limitations of the First Amendment provision that protects Freedom of the Press. The lesson poses a hypothetical scenario involving student journalists handling private information. After a brief class discussion, students investigate the history, various interpretations, and modern relevance of First Amendment Freedom of the Press protections in the *Interactive Constitution*. The lesson builds on the Day 3 (Freedom of Speech) lesson plan by asking students to compare and contrast the freedoms of speech and press through discussion questions including: How are speech and press related? and How are speech and press key to democratic functions? Students will demonstrate understanding by applying Supreme Court decisions, including the AP Government and Politics required case *New York Times Co. v. United States*, to evaluate the scenario presented earlier in the lesson.

Constitutional Questions

- How does freedom of the press relate to freedom of speech?
- Why was the protection of the press so important to the Founding generation?
- Why does freedom of the press remain important to American democracy today?



Day 5 Introducing Civil Dialogue on Freedom of Speech and Press

Arguments and understandings developed in Day 3 and 4 lessons on freedom of speech and press are used by students to address the constitutional questions presented in the lessons and engage in a classroom dialogue. The goal is to support students in constitutional thinking skills through the application of fundamental practices for civil dialogue. Students discuss complex ideas to build common understanding and dispositions for a respectful exchange of ideas. Students will reiterate norms and procedures for civil discussion established in the Day 2 lesson plan. Time permitting, students may also begin to discuss how to extend the conversation beyond the classroom period and what attributes they can use to promote healthy dialogues outside the classroom.

Matters for Discussion

- When does the First Amendment allow the government to limit or restrict speech?
- Can a principal punish you for criticizing her on social media?
- Can a public university disinvite a controversial speaker?
- Can the government outlaw certain kinds of speech online, like bullying, terrorist threats, or incitement to violence?
- Can a public school regulate what its students publish in the school newspaper?

Day 6 Freedom of Religion: Establishment Clause

The First Amendment has two clauses related to religion: one preventing the government establishment of religion (the “Establishment Clause”) and the other protecting the ability to freely exercise religious beliefs (the “Free Exercise Clause”). Students examine the First Amendment’s Establishment Clause—why it was included in the Bill of Rights, the issues it addresses, and how the Supreme Court has interpreted it over time.

Constitutional Questions

- Where does the Constitution draw the line between separation of church and state?
- Why was the Establishment Clause important to the Founding generation?
- How has the Supreme Court provided a legal framework for evaluating the boundary between church and state?

Preparation for Class: Watch Religion Videos



Day 7 Freedom of Religion: Free Exercise Clause

Students will examine the protections enshrined in the First Amendment's Free Exercise Clause. Students will use the *Interactive Constitution* to examine the Free Exercise Clause's text and history and how the Supreme Court has interpreted it over time. In this lesson, students compare and contrast the questions, opinions, and dissents in a series of Supreme Court cases to define when the Free Exercise does and does not limit government action.

Constitutional Questions

- What does it mean to prohibit the "free exercise" of religion?
- How does the Free Exercise Clause relate to the Establishment Clause in protecting religious freedom?
- How has the Supreme Court's application of the Free Exercise Clause changed over time?

Day 8 Freedom of Religion: A Civil Dialogue on Establishment and Free Exercise

Students will apply the fundamental skills of civil dialogue from previous lessons to discuss the Establishment and Free Exercise clauses of the First Amendment and explore where constitutional scholars agree and where there are matters of debate. Students will reiterate norms and procedures for civil dialogue established in the Day 2 lesson plan. Time permitting, students may also begin to discuss how to extend the conversation beyond the classroom period and what attributes they can use to promote healthy dialogues outside the classroom.

Matters for Discussion

- What does the First Amendment mean when it says "Congress shall make no law respecting an establishment of religion."
- Can your town council lead off its sessions with sectarian prayer?
- Can a public school give a religious group access to the school's classrooms for meetings outside of school hours? Can the group be excluded?
- Can the government give a parochial school grant money to build a new playground?



Day 9 Freedom of Assembly and Petition

Students explore the Founding era legacies of assembly and petition and how those legacies informed the creation of these often-overlooked aspects of the First Amendment. They will complete a close reading activity to compare and contrast ideas presented in the *Interactive Constitution* and describe the ways these rights have been interpreted by the Court and used by citizens at various points throughout U.S. history. They will evaluate the constitutionality of assembly and petition rights in the modern era through an in-class, civil dialogue addressing questions about time, place, and manner restrictions; counter-protests; protests on college campuses; and other relevant assembly and petition questions.

Constitutional Questions

- How can you assert your rights to freedom of assembly and petition?
- How did the Founding generation exercise their assembly and petition rights?
- How have constitutional movements throughout history used assembly and petition rights to enact constitutional change?
- How should we balance the right to protest with the need for public order?

Matters for Discussion

- How do the rights to freedom of assembly and petition relate to the right to freedom of speech?
- What ways are there to petition the government for “redress of grievances”?
- In what ways has technology changed the way we exercise our rights to petition our elected officials?
- When does the government have the ability to restrict protest in order to keep public order and safety?

Day 10 A National Civil Dialogue-Classroom Exchange

Students will apply the fundamental skills they have learned from previous lessons to discuss how the freedoms enshrined in the First Amendment of the U.S. Constitution apply in their world. Supported by the National Constitution Center, students will actively participate in a live, online Classroom Exchange. In the exchanges, classrooms across the United States are paired with one another to discuss a constitutional question that students have addressed in class. The exchange provides opportunities to discuss varying constitutional viewpoints with peers from across the country. Students are given opportunity to now embody the norms they previously established for a civil dialogue and engage in an inter-classroom discussion. Classroom Exchanges are moderated by legal professionals who are trained and approved by the National Constitution Center to engage students for healthy dialogue on the First Amendment.

Constitutional Question (CQ): Teachers can sign up classes for a civil dialogue(s) around a CQ about the First Amendment for whichever clause(s) they want their students to discuss.



Civil Dialogue Toolkit

Extending the Conversation, Beyond the Classroom

Warning: Students will engage in the civil dialogue and will not likely want to leave when the period is over. This is a perfect opportunity to speak with students about how to extend the conversation beyond the classroom walls and use their passion and energy on the subject to further engage their classmates (and others) in the civil dialogue they have started during class.

The tools presented in the Civil Dialogue Toolkit (<https://constitutioncenter.org/learn/constitutional-exchanges/think-like-a-constitutional-scholar>) outline ways students may choose to engage with their fellow citizens by acting to share their points of view outside the classroom walls. As teachers, this is also a great opportunity to use electronic tools like Google Classroom or Edmodo to allow students to continue the conversation online. For example, teachers may open a debate question or topic on Google Classroom, where students may choose to share points of view and comment on posts from other students. Or perhaps a teacher posts a discussion on the Edmodo Classroom for students to respond and comment on each other's posts in an effort to further the class discussion beyond the class period. All of these are possible ways to extend the classroom discussion.

However, some students may wish to share their points of view on the subject with the greater community outside of school by creating a podcast, writing a letter to the editor of a local newspaper, or posting news stories on social media. These are valuable occasions for students to find their voice and utilize their roles within the community to share their opinions and make their voices heard. Bringing these actions and activities back to the classroom for further elaboration is also a unique way for students to make the connections between academic focus and citizenship that we strive for our students to achieve.

About the National Constitution Center

The [National Constitution Center](https://www.constitutioncenter.org/) in Philadelphia brings together people of all ages and perspectives, across America and around the world, to learn about, debate, and celebrate the greatest vision of human freedom in history, the U.S. Constitution. A private, nonprofit organization, the Center serves as America's leading platform for constitutional education and debate, fulfilling its congressional charter "to disseminate information about the U.S. Constitution on a nonpartisan basis." As the Museum of We the People, the Center brings the Constitution to life for visitors of all ages through interactive programs and exhibits. As America's Town Hall, the Center brings the leading conservative and liberal thought leaders together to debate the Constitution on all media platforms. As a Headquarters for Civic Education, the Center delivers the best educational programs and online resources that inspire citizens and engage all Americans in learning about the U.S. Constitution. For more information, call 215-409-6700 or visit [constitutioncenter.org](https://www.constitutioncenter.org).

About the College Board

The College Board is a mission-driven, not-for-profit organization that connects students to college success and opportunity. Founded in 1900, the College Board was created to expand access to higher education. Today, the membership association is made up of over 6,000 of the world's leading educational institutions and is dedicated to promoting excellence and equity in education. Each year, the College Board helps more than seven million students prepare for a successful transition to college through programs and services in college readiness and college success— including the SAT and the Advanced Placement Program. The organization also serves the education community through research and advocacy on behalf of students, educators and schools. For further information, visit www.collegeboard.org.



Meet the Authors

Dr. Kerry Sautner, Ed.D., is the chief learning officer at the National Constitution Center. In her current role, she oversees all aspects of the public's on-site experience and leads the Center's national education efforts. Through various platforms, Sautner drives the development and distribution of programs and online offerings that make the Center the nation's leading constitutional education resource. Sautner also leads the development of interactive programs for students, teachers, and the public; theatrical productions; educational videos; and standards-based classroom materials available on-site and online.

Tim Rodman is a National Board Certified Social Studies Teacher and teaches Advanced Placement American Government, Microeconomics and Macroeconomics at Walter Johnson High School in Maryland. He was awarded the Maryland Social Studies Teacher of the Year Award in 2010 and works with students as the Youth & Government and Model United Nations advisor at WJHS. He graduated from the University of Maryland College Park with a masters degree in Social Studies Curriculum & Instruction. Tim is a founding member of the National Constitution Center's Teacher Advisory Board and enjoys sharing the US Constitution's treasures with students each year.

Dr. Jim Kearney is Assistant Director of Teaching and Learning for Radnor Township School District near Philadelphia, Pennsylvania. He holds a bachelor's degree in Secondary Social Studies Education from The Pennsylvania State University, a master's degree in History from Villanova University, a Supervisor of Curriculum and Instruction certificate through Lehigh University, and a doctorate in Educational Leadership from Drexel University.

Thomas Donnelly is Senior Fellow for Constitutional Studies at the National Constitution Center. His focus at the Center has been creating content for the Center's *Interactive Constitution*, America's Town Hall programming; and *We the People* podcasts with Jeffrey Rosen. Donnelly's specialties include constitutional theory, American political development, and American constitutional history. Prior to joining the National Constitution Center in 2016, Donnelly served as counsel at the Constitutional Accountability Center, as a Climenko Fellow and Lecturer on Law at Harvard Law School, and as a law clerk for the Honorable Thomas Ambro on the U.S. Court of Appeals for the Third Circuit. He is a graduate of Yale Law School, where he was a projects editor for *The Yale Law Journal* and a Coker Fellow. He received his bachelor's degree, summa cum laude, in government and philosophy from Georgetown University.

