

Activating My Democracy

- MIDDLE SCHOOL -

LESSON
6

**Our Future is a
Constitutional Right!**

How to use our rights to
defend what we love

ultimate
CIVICS



Activating My Democracy

Civics lessons and resources for grades 6-8 2019 Edition

Explores how to: (1) Move ideas into action; (2) Understand values, wealth, and liberties; (3) Understand rights, privileges, and the balance of power; (4) Trace the historic roots of the democracy crisis in current events; (5) Amend the U.S. Constitution to protect human rights; and (6) Exercise our rights to defend what we love.

Empowers: Youth by nurturing self-efficacy and by teaching foundational civics concepts and skills to take control of their destiny.

Engages: Youth as change agents to define their roles as global citizens during a critical time in human history.

Special thanks

Our Children's Trust
Sunnyside Environmental School grades 6-8 (2015-2016)
ad hoc focus group of retired teachers of King County, WA

Contributors

Occasional gifts from those able to pay it forward
and the Turner Foundation, Inc.

Riki Ott, PhD

Ultimate Civics, a project of Earth Island Institute



**“Una vez que el cambio social comienza, no se puede revertir.
No se puede educar a la persona que ha aprendido a leer.
No puedes humillar a la persona que siente orgullo.
Y no puedes oprimir a un pueblo que ya no tiene miedo.
Somos el futuro y el futuro es nuestro.”**

***Once social change begins, it cannot be reversed.
You cannot uneducate the person who has learned to read.
You cannot humiliate the person who feels pride.
And you cannot oppress a people who are not afraid anymore.
We are the future and the future is ours.***

~ César Chavez

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Our Future is a Constitutional Right

How to use our rights to defend what we love

Throughout U.S. history, people have used their constitutional rights and the power of the courts to defend what they love and to limit the power of a centralized government. Youth are often catalysts for system change, and now – globally – youth are rising to demand system-wide action for climate justice.

For example, the latest spark in this uprising is 16-year old Greta Thunberg from Sweden, whose courageous action led to a global school strike for climate action on March 15, 2019. Over a million youth in some 2,000 cities in over 125 countries took to the streets that day to demand people and politicians take action to protect the climate.

In the U.S., youth-driven legal actions for climate justice are now occurring in all 50 states and against U.S. government. The federal climate case, in particular, is consistently capturing media attention with recent articles in *Vogue* and *National Geographic* and even a segment on *CBS 60 Minutes*.

While the federal case and the state cases are important – and potentially life-changing – in and of themselves, the legal proceedings and media provide a teachable moment for young people.

The climate youth are asking the judiciary – in federal and state courts – to recognize their constitutional rights to a healthy atmosphere and stable climate system. Climate youth are also asking the courts to recognize a healthy atmosphere and stable climate system as resources critical to survival of present and future generations under pre-constitutional law known as the Public Trust Doctrine.

Youth across the nation are following these peer-driven cases, and students are asking for skills and knowledge beyond what is being taught in the classroom for their ages. Young people want to understand how people their age are exercising their constitutional rights to defend the climate for everyone.

It takes courageous teachers to step into these teachable moments as opportunities to provide transformative skills and knowledge to young people. Some of the questions involve constitutional law, a topic reserved for high school seniors, if it is taught at all. Some questions involve the Public Trust Doctrine, which is not taught at all in our primary and secondary schools, yet this doctrine is the bedrock of our democracy – of all democracies – and the key to achieving a sustainable future.

“There is nothing great about a country that abandons its children and future generations.”

**~ Aji, youth plaintiff
#youthvgov**



These courageous actions by youth – and the opportunity for inquiry and learning – set the framework for this 4-part lesson unit to explore: (1) constitutional rights cases, trial proceedings, and legal concepts like standing; (2) climate justice as right-based cases, concepts like protected class and how the court recognizes new fundamental rights, and the Public Trust Doctrine as foundational law; (3) remedies in constitutional rights cases and how youth might engage in local climate recovery actions to support their peers; and (4) how these rights-based cases proceed through the U.S. judicial system.

*To support this lesson, there are resources for educators as well as students. Enduring Understanding for Civics Grades 9–12**

- Describe the roles of political, civil, and economic organizations in shaping people’s lives. (D2.Civ.6.)
- Assess specific rules and laws as a means of addressing public problems. (D2.Civ.12.)
- Analyze the purposes, implementation, and consequences of public policies in multiple settings. (D2.Civ.13.)

*C3 Framework for Social Studies State Standards

<http://www.socialstudies.org/system/files/c3/C3-Framework-for-Social-Studies.pdf>

Essential Questions by Session

- 1. What are constitutional rights cases?
- 1. What are the elements of a court case?
- 1. What is legal “standing” and why is it important?
- 2. How are new fundamental rights recognized?
- 2. What are the core concepts of the Public Trust Doctrine?
- 2. What are examples of public trust resources?
- 3. In constitutional rights cases, what are examples of remedies for harm?
- 3. In the youth climate cases, what are specific examples of remedies for harm?
- 3. Who is responsible for taking care of resources critical for human survival?
- 4. What makes constitutional rights cases “game changers”?
- 4. How is the court system organized?
- 4. How do civil cases proceed through the court system?

Learning Objectives

Students can:

- Describe constitutional rights cases as claims of personal harm from government actions that have violated fundamental rights.
- Explain elements of a court case, including parts that occur before and after trial and “standing” as the ability to proceed to trial.
- Describe fundamental rights as either deeply rooted in our nation’s history or central to our order of society.
- Describe the Public Trust Doctrine as law with a special trust relationship, under which governments have a fiduciary duty of care for natural and cultural resources critical to survival and benefit of present and future generations, and citizens have rights; give examples of public trust resources.



- Describe remedies for harm in constitutional rights cases as court declarations of harm, rights, or duties and court orders to government to create and put into effect plans to obey laws, or to do or stop doing specific activities; give specific examples of remedies from the youth climate cases.
- Explain that the responsibility for taking care of resources critical for human survival rests with everyone—federal, state, and local governments; courts, businesses, and home owners; schools, adults, youth, and themselves.
- Explain constitutional rights cases as game changers that establish new or protect existing constitutional rights and change the way we think and act in society.
- Describe how court system is organized in three levels and how civil rights cases proceed through the system.



Materials & Preparation

Lesson 6

Lesson 6 explores a game-changing action in real time: How to use our constitutional rights to limit the power of a centralized government, drawing on real examples from the youth-driven, game-changing climate cases in federal and state courts. Students explore: (1) constitutional rights cases, trial proceedings, and legal concepts like standing; (2) climate justice as constitutional rights cases, how the court recognizes new fundamental rights, and the Public Trust Doctrine; (3) remedies in constitutional rights cases and how youth might engage in local climate recovery actions to support their peers; and (4) how these constitutional rights cases proceed through the U.S. judicial system. Students gain an understanding of how values, law, science, and politics interface when addressing complex public problems with multiple perspectives.

Time

Approximately 200 minutes: interactive activities supported by PowerPoint slides.

Suggested class sessions

1. Intro and pre-trial activities
2. Trial activities and exploring rights
3. Decisions and remedies
4. Game-changing state cases

Materials & Preparation by Session

All sessions

- Post online vocabulary, resources, and any class assignments
- Arrange tables into 6 groups

Session 1: Intro and pre-trial activities

Materials

- PowerPoint notes and slides 1–11
- 18 double-sided copies of “Core & Support Vocabulary”; **reuse** for other sessions
- 3–4 single-sided copies of entire set

of 8 individual statements in ACTIVITY “Statement of standing” (so every student has 1 individual statement)

Preparation

- Review PowerPoint notes and slides 1–11, including teaching guides for activities and vocabulary
- Post online materials from resources
- Place at table groups:
 - » 3 copies of vocabulary sheets
 - » 1 “Statement of standing” ACTIVITY sheet for each student

“Climate change isn’t just about temperatures and weather, it’s about people. Our earth will be here for millennia, it’s up to us to decide if humanity will be too.”

~ Vic, youth plaintiff, *Juliana v. U.S.* climate lawsuit



Session 2: Trial activities

Materials

- PowerPoint notes and slides 11–30
- 1 pocket copy per student of Declaration of Independence and U.S. Constitution
 - » Bulk discounts available: www.nccs.net/pc
- 18 double-sided copies of “Vocabulary” for Lesson 6
- 6 double-sided copies of ACTIVITY, “Jury Ballot – New Rights” and ACTIVITY, “Public Trust Law,” cut in quarters
- Exit ticket: 1 single-sided copy per student of ACTIVITY, “Our Rights, Our Duty”

Preparation

- Review PowerPoint notes and slides 11–30, including teaching guides for activities and vocabulary
- Post online materials from Resources
- Find page numbers in your classroom’s pocket Constitutions for these activities
 - » Slide 14, 5th Amendment on page _____
 - » Slide 14, 14th Amendment on page _____
 - » Slide 16, 9th Amendment on page _____
 - » Slide 19, Preamble to Constitution on page _____
- Place at table groups:
 - » U.S. Constitutions
 - » 3 copies of vocabulary sheets
 - » 4 copies each of “Jury Ballot – New Rights” and “Public Trust Law”
- Slide 30: Hand out exit tickets 10 minutes before end of class

Session 3: Decisions and remedies

Materials

- PowerPoint notes and slides 30–39
- 18 double-sided copies of “Vocabulary” for Lesson 6
- 6 single-sided copies per table of remedy cards for ACTIVITY, “Harm and Remedies”
- 3 single-sided copies on 3 different colors of paper of harm cards for ACTIVITY, “Harms and Remedies”
- 6 envelopes for index and remedy cards
- Slide 37: Film choices for remedies
 - » Install solar panels: www.youngvoicesfortheplanet.com/youth-climate-videos/save-tomorrow/
 - » Conduct energy audit: www.youngvoicesfortheplanet.com/youth-climate-videos/dreaming-in-green/
 - » Join Schools Under 2° C: www.broweryouthawards.org/winner/anne-lee/
 - » Close coal-fired power plants: www.youngvoicesfortheplanet.com/youth-climate-videos/words-have-power/
 - » Plant trees: www.youngvoicesfortheplanet.com/youth-climate-videos/plant-for-planet/

Preparation

- Review PowerPoint notes and slides 30–39, including teaching guides for

“Climate change is the defining issue of our time. The actions those in power take and decisions they make today, will determine the kind of world future generations will inherit.”

**~ Xiuhtezcatl, youth plaintiff
Juliana v. U.S. climate lawsuit**



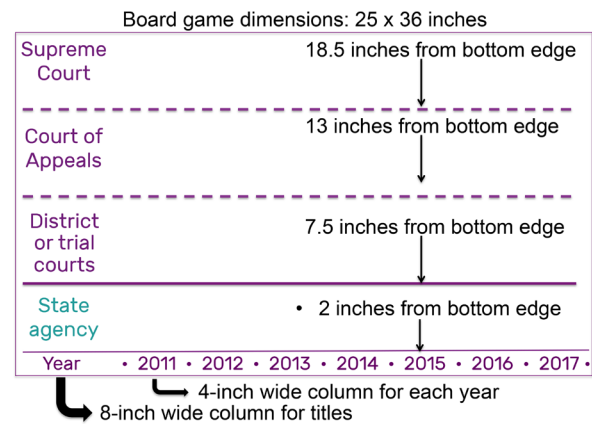
- activities and vocabulary
- Create game sets
 - » Label 6 envelopes: HARMS & REMEDIES
 - » Create 6 sets of harm cards with 3 different colors of cards within each set
 - » Create 6 sets of remedy cards by cutting each sheet apart separately
 - » Place set of 13 remedy cards and set of 3 color harm cards into each envelope
- Post online materials from Resources
- Place at table groups:
 - » U.S. Constitutions
 - » 3 copies of vocabulary sheets
 - » 1 HARMS & REMEDIES envelope with game cards
 - » Choose film for viewing

Session 4: Game-changing state cases

Materials

- PowerPoint notes and slides 39–48
- 18 double-sided copies of “Vocabulary” for Lesson 6
- 6 single-sided COLOR copies of ACTIVITY, “Board game cards”
- 12 small envelopes for game card sets and 12 3x5-inch color index cards
- Create game sets
 - » Label 6 envelopes for each state: COLORADO, MASSACHUSETTS
 - » Separate game card sheets by state, identified by gray image on card
 - » Cut sheets apart separately: CO has 16 cards, MA 9 cards
 - » Place game cards and 1 color index card into envelope with label that matches the state
 - » Repeat cutting and compiling until there are 6 sets of game cards in 6 envelopes for each state

- 6 sheets of paper 25 by 36 inches
 - » Create 6 Game Changer game boards as shown in diagram



- Exit ticket: 1 single-sided copy per student of ACTIVITY, “Our Rights, Our Future”

Preparation

- Review PowerPoint notes and slides 39–48, including teaching guides for activities and vocabulary
- Post online materials from resources
- Arrange tables in 5 working groups
- Place at table groups:
 - » 1 Game Changer game board
 - » 1 envelope containing COLORADO game set
 - » 3 copies of vocabulary sheets
- Slide 48: Hand out exit tickets 10 minutes before end of class



PowerPoint Notes

Lesson 6

1. *Ultimate Civics!* COVER SLIDE

Everyone has a story.

Suggested instruction for teacher

- ADD *your* 1-minute story to set this lesson on organization and structure of civil lawsuits and the court system, and how people use our rights to defend what we love.

<YOUR STORY HERE or start with Greta's story>

2. Youth & system change

Youth are often the catalysts for social change. The latest spark in the climate movement is 16-year old Greta Thunberg from Sweden.

RESOURCES

Greta Thunberg's story
[www.theguardian.com/
environment/live/2019/mar/15/
climate-strikes-2019-live-latest-
climate-change-global-warming](http://www.theguardian.com/environment/live/2019/mar/15/climate-strikes-2019-live-latest-climate-change-global-warming)

[www.theguardian.com/
world/2019/mar/11/greta-
thunberg-schoolgirl-climate-
change-warrior-some-people-
can-let-things-go-i-cant](http://www.theguardian.com/world/2019/mar/11/greta-thunberg-schoolgirl-climate-change-warrior-some-people-can-let-things-go-i-cant)

[www.ted.com/talks/greta_
thunberg_the_disarming_
case_to_act_right_now_on_
climate?language=en](http://www.ted.com/talks/greta_thunberg_the_disarming_case_to_act_right_now_on_climate?language=en)

In August 2018, Greta started a school strike for climate action every Friday by sitting outside the Swedish Parliament—by herself.

Eight months later, on Friday March 15, over a million youth in some 2,000 cities in over 125 countries left schools and took to the streets to rally people and politicians for climate action.

3. Essential Questions

We will explore the elements of a civil lawsuit and learn how cases proceed through the court system—using real examples from the youth-driven, landmark, climate cases.

Our essential questions are:

- What are constitutional rights cases?
- What are the elements of a court case?
- What is legal “standing” and why is it important?

4. Why the judiciary?

In the U.S., youth are targeting the judiciary instead of the government for their climate action—not only nationally, but in all 50 states.

<CLICK>

In the federal case, youth claim that for over 50 years congresses and presidents knew of the danger from burning fossil fuels—that carbon dioxide, would build up in the atmosphere and destabilize the climate system.

Despite the known danger, governments have knowingly allowed atmospheric levels



of carbon dioxide to increase to levels that endanger present and future generations.

<CLICK>

Since governments have refused to recognize the danger and act to prevent it, youth are going to court as a last resort to make the government take action. Youth are asking the judiciary—in federal and state courts—to recognize the danger from burning fossil fuels and destabilizing the climate system.

Since governments have refused to recognize the danger and act to prevent it, youth are going to court as a last resort to make the government take action. Youth are asking the judiciary—in federal and state courts—to recognize the danger from burning fossil fuels and destabilizing the climate system.

Youth are asking courts to recognize their rights to a healthy atmosphere and stable climate system. Youth want courts to order the other two branches of government to create and enact adequate climate protections now.

These constitutional rights cases are potential game changers because, if the court agrees with the youth, it could create new rights and change the way people think and behave in society.

5. Climate youth & their team

Core vocabulary for this lesson is under “parties to a court case” and “elements of a court case.” Share the vocab sheets at your tables.

These youth were between 8 and 18 years old when their case was filed in federal court in 2015.

These youth are all “plaintiffs.” Plaintiffs are persons who claim to have suffered harm

caused by the actions of another person.

The persons accused of causing the harm are the “defendants.” These are the key players in a lawsuit.

Legal cases or lawsuits are named after the first plaintiff and first defendant listed in the documents filed with the court.

<CLICK>

The youth climate case is called “*Juliana v. U.S.*” after youth plaintiff Kelsey Juliana – here (point out on slide) – and the defendant, the United States government.

<CLICK>

These youth plaintiffs are supported by Our Children’s Trust, a small nonprofit organization in Eugene, Oregon. Our Children’s Trust is also coordinating youth-driven legal actions in all 50 states and in 13 countries.

“This is our future we’re talking about. We have to stop going about our lives as if nothing is happening.”
~ Miko, 17, #youthvgov



RESOURCES

Our Children's Trust

<https://www.ourchildrenstrust.org/>

Profiles and stories on federal youth plaintiffs and Julia Olson

www.cnn.com/2016/09/12/opinions/sutter-julia-olson-climate-kids-profile/

www.vogue.com/article/youth-v-gov-fight-for-future-april-2019-issue

www.cbsnews.com/news/juliana-versus-united-states-the-climate-change-lawsuit-that-could-stop-the-u-s-government-from-supporting-fossil-fuels-60-minutes/

6. Trial map

Most people are familiar with trial scenes in TV shows and movies where lawyers for the plaintiffs and defendants present their evidence and argue their case before a “judge” and sometimes a “jury” in a court of law.

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But important parts of a case happen before and after the public trial.

<CLICK>

Look at the 5 elements of a court case in the Core Vocab. The trial happens third.

- What happens before trial and after trial?
- What happens first? Last?

Instructions



- Work with a partner and decide.
- Allow about 2 minutes for this exercise.

Discussion guide

Go in order and ask students to explain their answer.

- First: Plaintiffs have to file a complaint to start the process.
- Second: Court decides standing. If plaintiffs don't receive standing, there is no trial.
- Third: Court decides whether or not plaintiffs suffered harm.
- Fourth: Court decides the appropriate remedy or relief for any harm.

After discussion show answers.

<CLICK>

7. Pre-trial activities

Not all cases make it to trial. For a case to be accepted by a court of law, the plaintiffs must meet three requirements for “standing” – the ability to bring a case before a court.

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The judge decides which cases will go on to trial.

The three requirements are:

<CLICK>

- that plaintiffs have suffered personal harm or injury;

<CLICK>

- that the harm was caused by defendants' actions; and

<CLICK>

- that the court can provide a remedy to fix the harm.

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Only the cases that meet the standing requirements may proceed to trial.



8. Statement of standing

We're going to do a role-play exercise to learn how the youth plaintiffs declared standing for their constitutional rights case.

Everyone has a "Statement of standing" for one of these 8 plaintiffs.

- The statements were adapted from the complaint filed in *Juliana v. U.S.*
- The paragraph numbers match those in the primary source.

<CLICK>

Instructions for role-play activity



Prepare a statement to share

- Read your plaintiff's statement.
- Find at least 4 things that your plaintiff values and the cause of harm claimed from the defendants' actions. Write them in the space below the statement.
- For example, Jayden's home was damaged from more and more severe storms, associated with climate change.
- You have 5 minutes to do this.

Share your statement with others

- Now find another plaintiff and take turns sharing your statements.
- Allow about 4–5 minutes for each round.
- When you hear this sound – demonstrate, move and find a different plaintiff.
- Conduct 2 rounds of role play with different partners.
- After the last round, finish with your partner and return to your seat.

CONDUCT EXERCISE

Ask students to take their seats.

<CLICK>



Discussion guide

Instructor might review definitions for 4 types of wealth from Lesson 2, especially if this lesson was not shared with the class.

What are examples of *economic wealth* and claims of harm?

- property or home devalued or lost from violent storms and rising seas
- relocation because of drought or forest fires
- loss of food crops
- lost jobs from ski resorts with shortened season

What are examples of *environmental wealth* and claims of harm?

- extended droughts
- more frequent and more intense forest fires
- dying fish from rising temps
- coral loss from ocean acidification
- melting or disappearing snowpack

What are examples of *social wealth* and claims of harm?

- increased asthma and respiratory problems from burning forests and increased pollen
- limited opportunities to recreate outdoors, because of hot weather (summer) or snow loss (winter)
- reduced access to and enjoyment of outdoor activities or cultural activities

What are examples of *political wealth* and claims of harm?

- 5th Amendment right to life, liberty, and property from harm to physical and mental health
- 5th Amendment right to life, liberty, and property from loss of water and food security

Does the personal harm claimed have to have a financial value?

- No, it just has to contribute to overall

Statement of standing teaching guide

Personal values

Harm claimed

Avery

- swimming in lakes & streams, boating, hiking, backpacking, camping, watching wild salmon spawn
- personal health
- sledding, snowshoeing
- visiting coast, exploring tidepools, eating seafood

- high temps, drought, fires, beetle-kill forests & hungry bears make outdoor activities less likely and enjoyable
- allergies worse in high pollen and heat
- reduced snowpack
- coastal erosion, dead wildlife, high temps, ocean acidification and sea level rise lessen enjoyment

Isaac

- home and yard
- hiking along creeks and in forests
- mind/body benefits playing in snow
- personal health
- soccer, basketball, hiking

- trees dying from groundwater drop, harms enjoyment
- fire and drought harms enjoyment
- less snow means less recreating
- asthma increases with poor air quality
- asthma worsens performance

Jaime

- cultural values & sense of stewardship
- moved from homeland and resettled
- hiking, spending time in forest
- health
- feeling safe in home

- emotionally painful to lose traditions
- water scarcity, springs drying up, costs of hauling water too high
- forest killed by beetles and fires
- allergies worsen by dry, hot weather
- more fires, worried may lose home

Jayden

- family home, property & personal safety
- health
- swimming in ocean, playing at beach, eating seafood, crabbing
- visiting friends in coastal communities

- damaged from more and more severe storms, hurricanes, floods; land loss, storm surge; sea level rise; erosion
- poor air/water quality from fossil fuel development and activities
- residual oil from BP disaster makes these foods and activities dangerous
- harder and dangerous to travel with increased storms and land loss



Statement of standing teaching guide

Personal values

Harm claimed

Journey

- | | |
|--|--|
| <ul style="list-style-type: none"> • family, cultural values grounded in land and sea; deep sense of stewardship and responsibility for present and future generations • cultural activities taro and organic farming, fire dancing, Hula Hula • food security from the sea • swimming, snorkeling, canoeing, paddle boarding, biking on beach • personal safety and health | <ul style="list-style-type: none"> • rising temps and sea level harm land and sea, cultural activities, emotional security & ability to meet current & future needs • more intense & frequent storms, flooding & coastal erosion harm land & farm infrastructure, decrease harvest & activities to celebrate it • ocean acidification, higher temps & change in ocean circulation threaten food security • rising sea & less rainfall cause poor water quality & more shark activity |
|--|--|

Levi

- | | |
|---|--|
| <ul style="list-style-type: none"> • growing food in family's garden • beach activities • swimming in lagoon • watching sea turtles • family home and property • mind and body health | <ul style="list-style-type: none"> • high temps make it harder • drying, smelly seaweed from high temps harms enjoyment • dead fish and more flesh-eating bacteria endanger personal safety • less wildlife with higher temps • less value from sea level rise, may be lost completely • allergies worse, worries about his favorite outdoor places and sea life |
|---|--|

Nick

- | | |
|--|--|
| <ul style="list-style-type: none"> • church values & sense of stewardship • hiking, fishing, camping • growing own food, buying local food • biking and tennis • skiing | <ul style="list-style-type: none"> • emotionally hard to feel sense of loss • harmed by more and more severe wildfires, droughts, and floods • hail, rainstorms, pests destroy food • too hot to enjoy outdoor activity • warmer winters mean less snow |
|--|--|

Zealand

- | | |
|---|---|
| <ul style="list-style-type: none"> • biking, rock climbing, rafting, camping • personal health • winter sports like skiing • job security • drinking water security • playing in dunes, photography, surfing, boogie boarding, eating seafood | <ul style="list-style-type: none"> • high temps make outdoor sports less fun and even dangerous • asthma worse with high pollen count • warmer winters, less snowpack • mother seasonal worker at ski resort • water source snowpack disappearing • rising sea level & ocean acidification threaten ability to enjoy activities |
|---|---|



DISCLAIMER: Statement was adapted from the complaint in Juliana v. US, and is not intended to be an exclusive description of the values and harms claimed by youth plaintiffs.

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wellbeing like pleasure gained from hiking in forest or the ability to breathe without difficulty.

Do you have to own the thing that you claim was harmed?

- No, it can be swimming in the sea or the liberty to enjoy your way of life.

Does the harm have to have been caused or partially caused by the defendants' actions?

- Yes.

<CLICK>

Reflect a minute on what activities and things YOU enjoy. Do YOU have anything in common with the plaintiffs?

Reflections



- Turn to a partner and share.
- Allow about 2 minutes.
- Ask class: Raise your hand if YOU found something in common with the youth plaintiffs.
- » Ask class to look around. [Most people will have their hands raised.]
- » Allow any discussion.

The point is: the outcome of the youths' case will affect us all. Constitutional rights cases are important tools for citizens to limit the power of a centralized government and strengthen democracy.

It is the duty of citizens to use our constitutional rights to defend against government infringement of these rights. If people don't defend democracy, who will?

RESOURCES FOR EDUCATORS

Primary source document: *Juliana v. U.S.*, Complaint, Sept. 10, 2015

<https://www.ourchildrenstrust.org/court-orders-and-pleadings>

Tampering with history: Adapting primary sources for struggling readers

<https://jwa.org/sites/jwa.org/files/mediaobjects/tamperingwithhistory.pdf>

9. 2015–2016 Youth standing was challenged

In an effort to have the court “dismiss”—throw out—the youth climate case, the U.S. government challenged the youth plaintiffs' standing.

<CLICK>

At first, over six hundred and fifty (650) of the nation's largest oil and gas companies and manufacturers joined the federal government as “*intervenors*” to challenge youth plaintiffs' standing.

<CLICK>

The *trial court* denied the motions filed by the federal government and intervenors. The court granted standing to the youth plaintiffs, so the trial could proceed.

RESOURCES

Biggest case on the planet
<http://news.nationalgeographic.com/2017/03/kids-sue-us-government-climate-change/>

Updates on federal, state, and global legal cases
<https://www.ourchildrenstrust.org/>



10. 2017–2019 Federal government stalls trial

When the Trump Administration took office in January 2017, things changed. The oil and gas intervenors dropped out of the case—

<CLICK>

—and over two years, the federal government asked the higher courts *five times* to order the trial court to drop the youths’ case.

<CLICK>

On December 26, 2018, the “*appeals court*” granted the government a hearing before trial. The hearing is scheduled to start June 4, 2019.

Meanwhile, lawyers for youth plaintiffs requested a court order to prevent the federal government from issuing new permits for coal mining on federal land, issuing new leases for offshore oil and gas exploration and extraction, and approving new fossil fuel infrastructure such as pipelines, refineries, and more.

And in February, the youth-driven Zero Hour filed a Young People’s “friend of the court” brief with over 32,000 signatures of youth in support of the youth plaintiffs’ case.

For updates, check www.ourchildrenstrust.org/juliana-v-us.

RESOURCES FOR EDUCATORS

Youth plaintiffs’ gain standing in *Juliana v. U.S.*

See Opinion and Order, Nov. 10, 2016, and June 28, 2017

www.ourchildrenstrust.org/court-orders-and-pleadings

Trump lawyers fight to stop youth climate case

www.climatechangenews.com/2017/06/12/trump-lawyers-use-extraordinary-trick-quash-youth-climate-case/

Classroom guide to Opinion and Order, Oct. 15, 2018

In Brief for Educators: www.ultimatecivics.org/high-school-lessons/#1541099480824-4c651472-0d55

On why case should go to trial

See dissenting opinion in Order, Dec. 26, 2018

www.ourchildrenstrust.org/court-orders-and-pleadings

11. *Ultimate Civics!* COVER SLIDE

Completions of pre-trial activities and suggested stopping point for class. Next: Trial activities.

The reading for our next class is posted online under Session 2. It gives profiles on some of the youth plaintiffs and perspectives on the constitutional rights claims in *Juliana v. U.S.*

11. *Ultimate Civics!* COVER SLIDE

12. Essential questions

Our essential questions are:

- How are new fundamental rights recognized?



ultimate
CIVICS

- What are core concepts of the Public Trust Doctrine?
- What are examples of public trust resources?

13. Trial map: Claim 4 legal rights violated

To guide discussion, instructor might review the 5th, 9th, and 14th Amendments, especially if Lesson 2 was not shared with class.

In *Juliana v. U.S.*, youth are claiming harm to four legal rights. We will explore each claim separately like the judge and jury will do during trial.

<CLICK>

Youth plaintiffs are claiming two rights under the 5th Amendment protections of due process and equal protection.

<CLICK>

Youth plaintiffs are claiming a third right – a NEW fundamental right to be sustained by a stable climate system – under the 9th Amendment.

<CLICK>

The youth plaintiffs are claiming a fourth right to a stable climate system under something called the “*Public Trust Doctrine*.”

During trial, lawyers for the plaintiffs and defendants will argue each of these four claims separately.

<CLICK>

The judge or jury will decide *each* claim separately and the appropriate remedy for *each* claim.

A victory to youth on any of these four claims would set new legal precedent – a whole new body of law for a stable climate system.

Now let’s explore each claim.

14. Due process & equal protection

Let’s look at the 5th Amendment to review the rights harmed.

Instructions



5th Amendment inquiry

- At your table, find in the 5th Amendment, the rights of due process and equal protection. The 5th Amendment is on p. ____.
- What did you find?
 - » Likely: “No person... shall be deprived of life, liberty, and property, without due process of law.”
 - » But: not anything about equal protection.

If Lesson 2 was shared with class, instructor may ask students to explain the support questions and proceed to next slide.

The Bill of Rights recognizes people’s right to limit the power of the federal government.

<CLICK>

Support Questions:

- How did the Bill of Rights become people’s rights to use against **state** governments?
- How did equal protection become a people’s right to use against the **federal** government?

<CLICK>

The 14th Amendment was adopted after the Civil War.

14th Amendment inquiry

- At your table, find in the 14th Amendment, the rights of due process and equal protection. The 14th Amendment is on p. _____. Look in Section 1 near the end.



- What did you find?
 - » “Nor shall any State deprive any person of life, liberty, and property, without due process of law.”
 - » And: “... nor deny to any person within its jurisdiction the equal protection of the laws.”

<CLICK>

“Due process” in the 14th Amendment included most Bill of Rights protections. That’s how people gained Bill of Rights protections to use against **state** governments.

<CLICK>

Eighty years later during the Civil Rights movement of the 1960s, federal courts recognized the Equal Protection Clause from the 14th Amendment in the original Bill of Rights.

<CLICK>

That’s how equal protection became a people’s right under the 5th Amendment.

RESOURCES FOR EDUCATORS

Rights not incorporated by 14th Amendment: 2nd Amendment, 3rd Amendment, and 5th Amendment right to be indicted by grand jury
<https://legal-dictionary.thefreedictionary.com/Substantive+Due+Process>

Reverse incorporation of equal protection
https://en.wikipedia.org/wiki/Bolling_v._Sharpe
<https://supreme.justia.com/cases/federal/us/347/497/case.html>

15. Claiming harm under 5th Amendment

This is how the youth are able to claim harm under the 5th Amendment Bill of Rights protections of due process and equal protection. Youth are claiming, as the youngest generation, they will suffer more harm from climate disruption than older generations they will outlive.

16. Claiming harm under a new right

The key issue to be addressed at trial is whether people have a NEW constitutional right to a healthy atmosphere and a stable climate system.

- What amendment gives people a right to claim rights not listed in the Constitution?
 - » Hint: Bill of Rights, one of natural rights or reserved powers.
 - » The 9th Amendment.

<CLICK>

Let’s translate the 9th Amendment into your own words, using this code.

<CLICK>

Enumeration means listing.
 Construed means meant.
 Disparage means undervalued.
 Retain means held.

Instructions



- Turn to the 9th Amendment in the Bill of Rights on p. ____ of the Constitution.
- Turn to a partner and translate in your own words.
- Allow about 2 minutes.
- Ask students to share their interpretations before proceeding.

<CLICK>



Possible interpretation: All of our inalienable rights are not listed. People have a right to claim rights that are not yet listed. The newly recognized rights are valued the same as existing rights.

<CLICK>

- Class challenge question: What amendment gives people a right to claim other rights against state governments?
 - » Hint: Remember this? What amendment is like the state Bill of Rights?
 - » 14th

This is important, because most of our newly recognized rights are established as U.S. Supreme Court decisions that were appealed from state cases. The federal youth plaintiffs are claiming a new constitutional right through the 9th Amendment, but the youth are also bringing the same claim to a new right to state courts.

<CLICK>

When people created democratic governments, people reserved powers to themselves. They didn't give all of the political power to the new government.

<CLICK>

- Are the 9th and 14th Amendments examples of people's use of "reserved power"?

Instructions and discussion guide



- Use your vocab and discuss with a partner.
- Be ready to share.

Reserved power is what gives people the inalienable right to claim other rights. The 9th and 14th Amendments are examples of people's use of "reserved power" to claim other constitutional rights not listed.

RESOURCES FOR EDUCATORS

10 Supreme Court cases about the 14th Amendment

<https://constitutioncenter.org/blog/10-huge-supreme-court-cases-about-the-14th-amendment>

17. Establishing a fundamental right

For a right to become a fundamental right, a judge must decide that the right is either:

<CLICK>

- 1) deeply rooted in our nation's history or tradition, *OR*
- 2) fundamental to our order of society.

Opportunity question

If the Timeline of Rights, Powers, and Oppression is posted in classroom, ask students:

- Can you find the most recent fundamental right that was recognized?
 - » Hint: Start backwards in the timeline and look for blue.
 - » 2015, the right to same-sex marriage.



RESOURCES FOR EDUCATORS

U.S. Supreme Court & Civil Rights Decisions

<http://civilrights.findlaw.com/civil-rights-overview/civil-rights-u-s-supreme-court-decisions.html>

Fundamental rights in *Juliana v. U.S.* – See U.S. District Judge Ann Aiken, Opinion and Order, November 10, 2016, pp. 29–33

<https://www.ourchildrenstrust.org/court-orders-and-pleadings>

<CLICK>

In *Obergefell v. Hodges*, the Court decided that marriage is “the foundation of the family in our social order” and that “marriage is a keystone of our social order.”

18. Fundamental right: Stable climate system?

Youth plaintiffs in *Juliana v. U.S.* claim their 5th Amendment rights to life, liberty and property were violated.

<CLICK>

Youth plaintiffs claim that their 5th Amendment rights cannot be secured without a new fundamental right to a healthy atmosphere and stable climate system.

The trial court said, if granted, this new fundamental right would be part of the 5th Amendment due process protection.

19. Preamble to U.S. Constitution

Let’s consider the youth plaintiffs’ claim as we reflect upon the Preamble to the Constitution. Let’s turn to the Preamble on p. ____.

The Preamble is the very first paragraph and it sets out the goals of the Constitution.

<CLICK>

Instructions



- Read the Preamble in partner teams or as a class.
- Identify the 6 goals set forth in the Preamble.
- Identify the 2 types of persons protected under the Constitution.

During discussion, <CLICK> for first goal and after each goal including last.

Discussion guide

- What are the 6 goals of the Constitution?
 - » form a more perfect Union
 - » establish Justice
 - » insure domestic Tranquility
 - » provide for the common defense
 - » promote the general Welfare
 - » secure the Blessings of Liberty...
- What’s another word for “Welfare”?
 - » wellbeing of a group of people
 - » health, happiness, and comfort of everyone in a community
- What is the definition of “Liberty”?
 - » freedom from government oppression; liberty refers to our protected freedoms, our constitutional rights
- Which of the goals in the Preamble help form and maintain an ordered society?
 - » all of them

WHO is protected by the Constitution?

- » present generation: “We the People”
- » present and future generations: “...ourselves and our Posterity”



20. Jury Ballot – New right?

Let's focus on these four goals.

We will consider if each can be secured without a stable climate system. Discuss in terms of values and use examples from the standing activity.

For example, justice is about fairness. Are areas most at risk from climate instability evenly distributed across class and race?

Now it's your turn to be the Jury.

Instructions



- There are 4 Jury Ballots per table group.
- Discuss and vote on each question at your tables.
- Be prepared to share your answers in about 5 minutes.

"Climate change is a multiplier of injustice."

~ Jacqueline Patterson, Director
NAACP Environmental and Climate
Justice Program

Consider reading plaintiff Jayden's eyewitness account of the heavy flooding in August 2016 in southern Louisiana either before or after the discussion. See story in box.

Discussion guide

- Discuss each question.
- Then tally and record the votes on the white board.

Justice

- property damage from flooding from sea level rise, storm surges, or more intense storms
- health damaged or at risk from smoke

from burning forests or by oil spills

- forced relocation because of water shortages from extended droughts or sea level rise or forest fires
- changes to way of life or culture from harm to land, ocean, wildlife,
- changes in food security from inability to grow food

Domestic Tranquility

- sense of security in home or community
- sense of wellbeing for individual or extended family members

General welfare

- Unstable climate system creates superstorms, extended drought, water shortages, large-scale forest fires, ocean acidification, and more, which all harm general wellbeing.

Blessings of liberty

- Unstable climate system threatens life, liberty, and property; due process; and equal protection.

Final question

- Finish the last question on the white board as a class.
 - » Did we answer "NO" to ANY of these questions? If so, then...

<CLICK>

- » ... the answer to the last question is YES.
- » Check appropriate box.

If the students voted "no" to any of these questions, then the "jury" recognized the fundamental right to a stable climate system under the 9th Amendment.

Judge Ann Aiken agreed. In her November 2016 ruling to allow the case to proceed to trial, she wrote, "Exercising my 'reasoned



judgment,' I have no doubt that the right to a climate system capable of sustaining human life is fundamental to a free and ordered society."

If the courts affirm a constitutional right to a healthy atmosphere and a stable climate system *during trial*, a new body of law would be created to protect this right.

8. Floodwaters were pouring into our home through every possible opening. Our toilets, sinks, and bathtubs began to overflow with awful smelling sewage, because our town's sewer system also flooded. We had a stream of sewage and water running through our house.

10. The hard rain and floods continued for two weeks. We had nowhere to go. So, we kept sleeping in our house that was full of sewage and floodwater damage.

16. A few days after the flood, my siblings and I began to get real sick. We had flu-like symptoms with fevers and sore throats, as well as stomach pain and diarrhea. My whole body felt hot and my hands were very cold. Most people we know in the town of Rayne are also sick.

Excerpts from "Declaration of youth plaintiff Jayden," supplement, September 7, 2016

<https://www.ourchildrenstrust.org/court-orders-and-pleadings>

DISCLAIMER: Document was adapted from the complaint in *Juliana v. US*. It is not intended to be an exclusive description of the values and harms claimed by the youth plaintiffs.

21. What do you own?

Discussion guide



Consider this.

- What do you own? What do you think of as your property? Students usually list *private property*.
- Now take a breath of air. Did you have to pay anyone for that?
 - » No.

This is an example of *public property*. You own part of every national forest, state park, public museum, and more.

<CLICK>

For example, you own part of the Great Smoky Mountains National Park (North Carolina and Tennessee), the giant Sequoia National Forest (California), Grand Canyon National Park (Arizona), Yellowstone National Park (Wyoming, Montana, Idaho), and the Bosque del Apache National Wildlife Refuge (New Mexico).

As a U.S. citizen, you own part of every wild thing in this country that flies, swims, crawls, runs, or walks—the bears, orcas, sandhill cranes, monarch butterflies, and more.

When you swim in the ocean, walk on a public beach, or boat on a river, you don't pay anyone, because these are other examples of public property.

When oil companies spill oil and kill sea turtles and dolphins, fish and sea otters, pelicans, and more, the company must pay a fine to the federal government on behalf of the public.

That's because you own part of all the wildlife, and all public lands, waters and air, under "*common law*."

- Which came first: Common law or the U.S. Constitution?



Instructions and discussion guide



- Use your vocab in Public Trust Doctrine and discuss with a partner.
- Be ready to share.

Common law comes from English law that developed over time from customs and court decisions. Common law is judge-made law. The tradition of common law pre-dates our Constitution and was carried over into U.S. law—along with many of the common laws, as we are about to see.

Common law is different than law that is written and passed by a legislature, but it's still law. As a citizen, you have rights under common law.

22. Origin of the Public Trust Doctrine

The origin of the Public Trust Doctrine is Roman law from 533 A.D.: “By the law of Nature ... the air, the running water, the sea, and consequently the shores of the sea ... are common to mankind.”

533 A.D. was almost 1,500 years ago! It was the Middle Ages.

- What do you think “*running water*” meant back then?
- Natural fresh water bodies like rivers or springs.

This Roman law carried into English common law, and from there into modern law of all democratic countries, including the United States.

RESOURCES FOR EDUCATORS

Origins of Public Trust Doctrine
www.britannica.com/topic/Code-of-Justinian

www.britannica.com/topic/common-law

Primary sources on Public Trust Doctrine with legal basis in reserved powers as established by common law as follows.

Public Trust Doctrine: A Primer
https://law.uoregon.edu/images/uploads/entries/PTD_primer_7-27-15_EK_revision.pdf

Mary Wood, *Nature's Trust: Environmental Law for a New Ecological Age* (Cambridge University Press, 2014)

23. Concepts under the Public Trust Doctrine

Under the Public Trust Doctrine:

- Certain natural and cultural resources are held in trust by sovereign governments.

The word “certain” here means those resources that are *essential to survival* of humankind. This is different than other public property like man-made parks and museums.

“Held in trust” means the government has a public “*trust relationship*” on behalf of the people—a legal duty that it cannot ignore because it's law.

<CLICK>

- It is the duty of governments to protect and maintain these resources...

<CLICK>



- ... for the survival and benefit of present and future generations.

“... protect and maintain...” means resources may be used by the present generation, but not used up – or so badly damaged or polluted that the resources do not benefit future generations.

“... present and future generations” means the government can’t give one generation more than its fair share or advantage the present generation at the expense of future generations.

24. Trust relationships as law

The common ownership of certain natural and cultural resources evolved into a special legal relationship – a “*trust relationship*” – between democratic governments and citizens.

<CLICK>

- Can you tell me what a trust relationship is?

Instructions



- Use your vocab and explain to a partner.
- There’s another word: “fiduciary.” Look up that one, too.
- Ask students to share what they found.

Discussion guide

A trust relationship is a legal plan in which a person (or persons) takes care of property for the benefit of another person (or persons). A trust relationship involves two parties, trust property, and a duty of care for the trust property.

<CLICK>

The duty of care is a “*fiduciary duty*,” a special legal duty. It requires the highest standard of legal care, in terms of honesty and loyalty, and it *must* be carried out.

Now let’s apply this to the Public Trust Doctrine.

- Can you identify the public trust resources in this photo?
 - » Ocean, orcas, air
 - » If students miss “air,” ask what the whales are breathing.
 - » What do orcas eat? (Fish or marine mammals, other wildlife.)

Protecting whales as a public trust resource means also including their ocean habitat and other wildlife. This photo is not just about orcas—it’s about orcas as wildlife and what they need to live.

<CLICK>

The party that has the duty of care is the “*trustee*.”

- Who are the trustees under the Public Trust Doctrine? Look at your vocab.
 - » the government

<CLICK>

The party that benefits from the duty of care is the “*beneficiary*.”

<CLICK>

- Who are the beneficiaries under the Public Trust Doctrine?
 - » present and future generations

<CLICK>

- What’s another word for future generations?
 - » Hint: The word from the Preamble to the Constitution: to benefit ourselves and our...?
 - » Posterity

The type of ownership is also special. Public trust resources are not “owned” the same way as private property like a house or car, or a dog or cat.



<CLICK>

- What does this mean: “The ocean belongs in ‘usufruct’ to the living.” Use your vocab and explain to a partner.
 - » A right to use another person’s property as long as we don’t damage it or use it up.

<CLICK>

- Who do the whales belong to?
 - » ... in *usufruct* to the living
- Who does the air belong to?
 - » ... in *usufruct* to the living

25. Public trust law

On the back of the jury ballot is another ACTIVITY, “Public Trust Law.”

Instructions



- Work with a partner (or at tables) to match the numbers of missing words in the blank spaces.
- When ready, complete the statement as a class.

The Public Trust Doctrine is a 3-law with a special 7-trust relationship.

Government 2-trustees have a 4-fiduciary duty to take care of 6-public trust

resources for the 8-survival and benefit of present and future generations.

These resources belong in 5-usufruct to the 1-beneficiaries.

26. Intergenerational key

The Earth belongs in usufruct to the living. The Public Trust Doctrine is key to intergenerational equity, justice, and sovereignty. It’s key to achieving sustainability.

We know that the origin of the Public Trust Doctrine is common law that predates constitutions. But how did it get into our

Constitution as a people’s right? Let’s look.

<CLICK>

Several of our rights listed in the Bill of Rights come from reserved powers like the 9th Amendment.

- What does the 10th Amendment say about reserved power?

Instructions and discussion guide



- Turn to a partner and discuss.
- Be ready to share.

The 10th Amendment reserves powers not listed or prohibited

in the Constitution to the states and the people. Like the 9th Amendment, it uses people’s reserved power to create a constitutional right.

<CLICK>

Our 1st Amendment freedom of speech was common law before it was a constitutional right. Our 7th Amendment rights to jury trial and jury decisions protected from higher courts also came from common law.

<CLICK>

The Public Trust Doctrine is a reserved power that is implied in our Constitution in places like the Posterity Clause and the Due Process Clause.

But it first found its way into our Constitution through common law—a court ruling in 1892. That’s when the U.S. Supreme Court ruled that a government cannot deprive a future government of the natural resources needed to provide for the survival and well-being of its citizens.

The courts continue to define resources and rights under the Public Trust Doctrine, as our inalienable right of reserved power.



RESOURCES FOR EDUCATORS

Illinois Central Railroad Company v. Illinois, 1892

www.casebriefs.com/blog/law/property/property-keyed-to-merrill/values-subject-to-ownership/illinois-central-railroad-co-v-illinois/

First Amendment and common law background

www.law.cornell.edu/constitution-conan/amendment-1/adoption-and-the-common-law-background

27. 'Golden eggs' of the Public Trust Doctrine

Over time, federal and state courts have recognized certain natural and cultural wealth as public trust resources. Under common law, courts can recognize new rights just like courts can recognize new rights under the 9th and the 14th Amendments.

These public trust resources are like our golden eggs. Here are some examples.

<CLICK>

- "Navigable waters" was recognized by federal court in 1821.

"Navigable waters" are waters that provide a channel for commerce and transportation of people and goods.

<CLICK>

- Why are these examples of navigable waters?

Instructions and discussion guide



- Turn to a partner and discuss, then share as a class.

» Each shows a waterway providing commerce or transportation of people or goods.

- » Mississippi River with a coal barge
- » Colorado River with rafters
- » smaller rivers and streams with paddle boarders
- » ocean with all kinds of ship traffic

<CLICK>

- submerged lands, by federal court in 1892

"Submerged lands" is soil lying beneath water or on the oceanside of tidelands. This includes the Outer Continental Shelf lands and the oil and minerals under it.

Offshore oil and gas drilling occur on submerged lands. If not done carefully, oil spills can harm other public trust resources like the ocean, navigable waters, fish and wildlife, the sea shores, and the beneficiaries who depend on or benefit from the resources.

<CLICK>

- wildlife by Connecticut in 1896
- all public natural resources under the Hawai'i Constitution
- wetlands by Wisconsin in 1972

Wetlands are marshes, swamps, and estuaries where water covers soil or is near the surface. It also includes Arctic tundra—more "wet" now with melting permafrost.

<CLICK>

- all waters by Montana in 1987
- tidelands by Mississippi in 1988
- groundwater by Hawai'i in 2000



Groundwater is water found underground. The nation's largest pool of groundwater lies under the Great Plains and eight states. The Ogallala Aquifer can hold as much water as Lake Huron. It is a major source of agricultural water in most of the western plains.

<CLICK>

- instream flow by Montana in 2002

Instream flow is the water flowing in a stream channel. Some instream flow is usually reserved for fish and aquatic habitat. Extra might be for human use like hydropower, irrigation, recreation, and drinking.

<CLICK>

- air and atmosphere by Texas in 2012

<CLICK>

In federal and state courts, youth are claiming a right to a healthy atmosphere and stable climate system as beneficiaries under the Public Trust Doctrine.

Youth claim that the government has failed to fulfill its public trust duty by not protecting and maintaining a stable climate system for the survival and benefit of present and future generations.

RESOURCE FOR EDUCATORS

Public trust foundation and claims in *Juliana v. U.S.*, See Opinion and Order, November 10, 2016, pp. 36–49
<https://www.ourchildrenstrust.org/court-orders-and-pleadings>

28. Protecting our constitutional rights

The youth plaintiffs are bringing their fourth claim to federal court under the Public Trust Doctrine. Here's why.

Under "statutory law" or "administrative law," people may challenge one law or rule.

(Statutory law deals with written laws passed by a legislature, and administrative law deals with the rules and policies written by government agencies.)

For example, people might petition a state agency about a single facility that is polluting the air in violation of its operating permit.

<CLICK>

But what about when emissions from all the law-abiding industries and other sources of pollution like our vehicles, power generators, and agriculture add up to too much pollution and endangers public health and welfare?

<CLICK>

Under common law like the Public Trust Doctrine, people may challenge the whole system of laws and permits.

The climate youth are doing just that.

29. Know your rights!

Now it's your turn to decide your rights.

Here is a list of public property. Some things on this list are *critical to survival* of humankind. These are, or should be, public trust resources.

Discussion Guide



Go through the list together, calling out each resource and asking for group answer.

- Are public schools critical to survival of humankind?
 - » No.
- National forests?
 - » Yes, most federal public land in the United States is held in trust for the people by the federal government.



<CLICK>

- Air we breathe?
 - » Yes, this dates back to Roman law.

<CLICK>

- Public library?
 - » No.
- Ocean?
 - » Yes, this dates back to Roman law.

Did you know that 50–85 percent of oxygen in the Earth’s atmosphere is produced by tiny marine plants called phytoplankton? The rest is produced by land-based plants.

<CLICK>

- Public zoo?
 - » No.
- Running water?
 - » Yes, this dates back to Roman law.

<CLICK>

- Atmosphere?
 - » Consider that the air is part of the atmosphere.
 - » Consider that no other planet in the known universe has an atmosphere that supports life.
 - » This will be argued in court.

<CLICK>

- Ocean shores?
 - » Yes, this dates back to Roman law.

<CLICK>

- Wildlife?
 - » Yes, this dates back to Roman law.

<CLICK>

- Public museum?
 - » No.
- Stable climate system?
 - » Yes, this is critical for our survival and our order of society.
 - » Earth’s climate system supports

life. We’ve yet to find another planet that does.

- » This will be argued in court.

<CLICK>

- State park?
 - » No.

RESOURCES

How much oxygen is produced from ocean plants?

<http://earthsky.org/earth/how-much-do-oceans-add-to-worlds-oxygen>

Why is the atmosphere important to life on Earth?

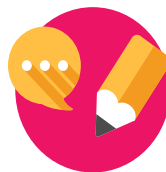
<https://www.ck12.org/earth-science/importance-of-the-atmosphere/lesson/Importance-of-the-Atmosphere-HS-ES/>

30. *Ultimate Civics!* COVER SLIDE

Completion of trial arguments and suggested stopping point for class.

Next: Decisions and remedies.

Instructions



Hand out exit tickets “Our Rights, Our Duty.”

- Allow about 10 minutes for students to complete exercises.
- If time allows, ask students to share “take-aways,” either with a partner or as a class.
- Collect as students exit.

Find Exit Ticket Guide right after the vocabulary section.

30. *Ultimate Civics!* COVER SLIDE



**ultimate
CIVICS**

31. Essential questions

Our essential questions for this lesson are:

- In constitutional rights cases, what are examples of remedies for harm?
- In the youth climate cases, what are specific examples of remedies for harm?
- Who is responsible for taking care of resources critical for human survival?

32. Remedies in constitutional rights cases

Judicial remedies in constitutional rights cases consist of:

- court declarations
 - » of harm to plaintiffs
 - » of people's rights or government's duties

<CLICK>

- court orders to government
 - » to create and carry out a plan for to obey the new law
 - » to do or stop doing specific acts

33. Remedies in *Brown v. Board of Education*

Teacher might need to review this case before the activity. See Resources.

Let's apply what we just learned to *Brown v. Board of Education*, another constitutional rights case, to see how this works. Here are three court statements from the case.

- (Court declared) segregated schools are "inherently unequal"
- (Court declared) plaintiffs are deprived of "equal protection of the laws guaranteed by 14th Amendment"
- (Court) ordered school board to create and carry out a plan to desegregate "with all deliberate speed"

<CLICK>

Instructions



- Work at your tables to match each court statement with the number of remedies that apply.
- Be ready to share.

Discussion guide

Ask students to explain their answers.

Segregated schools...

Remedy #1: Inherently unequal is a court declaration of harm.

Plaintiffs deprived of...

Remedy #1: Plaintiffs deprived of equal protection is a court declaration of harm.

Remedy #2: Laws guaranteed by 14th Amendment is a court affirmation of rights.

Ordered school board...

Remedy #3: Court orders government to create and conduct a plan to desegregate schools.

In *Brown v. Board*, the court acknowledged "that all of the federal, state, and local laws that condoned segregation must be altered" and that this would involve "a transition to racially nondiscriminatory school system." The court kept control of the case to ensure that the government would carry out its plan to desegregate schools.

RESOURCES FOR EDUCATORS

History of Brown v. Board of Education

www.history.com/topics/black-history/brown-v-board-of-education-of-topeka



34. Possible remedies in *Juliana v. U.S.*

Let's explore possible court remedies for *Juliana v. U.S.*

Say the Court finds in favor of youth plaintiffs on all three claims of harm.

The Court affirms a new right to a healthy atmosphere and stable climate system under the Due Process Clause of the 5th Amendment.

The Court affirms that the youth plaintiffs' 5th Amendment right to equal protection is being violated by government actions.

The Court finds that a healthy atmosphere and stable climate system are public trust resources, because they are critical for human survival.

<CLICK>

- What might be possible remedies of harm for each claim?

Instructions



- Open the envelope of REMEDIES at your tables and take out cards.
- Place the three large color CLAIM cards on the table.
 - Match remedies with each court decision and place on the matching CLAIM card.
 - Order remedies on each CLAIM card from first to last.
 - Be ready to share in 5 minutes!

Discussion guide

CLAIM: Due process and new constitutional right

- **Court declares harm:** Plaintiffs are being deprived of life, liberty and property without due process rights guaranteed by 5th Amendment.

- **Court declares relief:** Court recognizes a new constitutional right to a healthy atmosphere and stable climate system as part of due process of the 5th Amendment.
- **Court orders government:** To create and put into effect a science-based climate recovery plan to protect the new constitutional right to a healthy atmosphere and stable climate system.
- **Court orders government:** To stop new fossil fuel activities and new infrastructure until the court-approved climate recovery plan is in place.

The court-ordered injunction could prevent the federal government from issuing new permits for coal mining on federal land, new leases for offshore oil and gas exploration and extraction, and approvals for new fossil fuel infrastructure—similar to the preliminary injunction filed by youth plaintiffs with the Ninth Circuit Appeals Court in February 2019.

CLAIM: Equal protection

- **Court declares harm:** To equal protection rights of youth guaranteed under the 5th Amendment.
- **Court orders government:** To create and put into effect a science-based climate recovery plan that protects the constitutional right of equal protection for youth.
- **Court orders government:** To stop new fossil fuel activities and new infrastructure until the court-approved climate recovery plan is in place.

CLAIM: A healthy atmosphere and stable climate system as critical resources under the Public Trust Doctrine.

- **Court declares rights:** Recognizes the right to a health atmosphere and a stable climate system as critical



resources under the Public Trust Doctrine.

- **Court declares harm:** To a healthy atmosphere and a stable climate system as public trust resources.
- **Court declares harm:** To beneficiaries' rights to survival and benefit from a healthy atmosphere and a stable climate system.
- **Court declares duties:** Of government to protect a healthy atmosphere and stable climate system as critical resources under the Public Trust Doctrine.
- **Court orders government:** To create and put into effect a science-based climate recovery plan that to restore and protect a healthy atmosphere and a stable climate system as critical public trust resources.
- **Court orders government:** To stop new fossil fuel activities and new infrastructure until the court-approved climate recovery plan is in place.

Ask students to return all 13 REMEDY cards and 3 CLAIM cards to the envelope!

RESOURCES FOR EDUCATORS

Preliminary injunction motion in *Juliana v. U.S.*, February 8, 2019

www.ourchildrenstrust.org/court-orders-and-pleadings

35. Remedy: Climate recovery plan

Sophie is one of the youth plaintiffs. Dr. James Hansen is her grandfather. He's also one of the world's leading climate scientists and the former director of NASA (National Aeronautics and Space Administration).

Dr. Hansen and most climate scientists

maintain that, since the industrial revolution, human activities have caused an increase in the concentration of carbon dioxide in the atmosphere from 280 parts per million (ppm) to over 400 ppm.

The excess carbon dioxide is heating the atmosphere, destabilizing the climate system, melting ice caps, and causing ocean acidification.

Dr. Hansen warns that the last time the Earth was this hot, the ocean was about 20 feet higher than it is today, because of melting polar ice caps and glaciers.

Dr. Hansen and other climate scientists tell us that the maximum safe concentration of carbon dioxide in the atmosphere is 350 ppm—and we should aim lower for 280 ppm.

We need to reduce the atmospheric level of carbon dioxide to 350 ppm or lower immediately and as fast as possible by:

<CLICK>

- REDUCING activities that promote, use, and burn fossil fuels, and
- INCREASING activities that transition to green safe energies like solar and wind power, and activities that are proven to sequester carbon like planting trees.

Based on advice of Dr. Hansen and other experts, the youth plaintiffs are asking the court for a science-based climate recovery plan to reduce greenhouse gas emissions, store carbon, and shift to renewable energies.

The goal is to return our climate to a stable state by returning atmospheric levels of carbon dioxide to under 350 ppm by the end of the century.



FILMS about youth actions to reduce greenhouse gas emissions

Close coal-fired power plants: www.youngvoicesfortheplanet.com/youth-climate-videos/words-have-power/

Conduct energy audit: www.youngvoicesfortheplanet.com/youth-climate-videos/dreaming-in-green/

Install solar panels: www.youngvoicesfortheplanet.com/youth-climate-videos/save-tomorrow/

Join Schools Under 2° C: www.broweryouthawards.org/winner/anne-lee/

Plant trees: www.youngvoicesfortheplanet.com/youth-climate-videos/plant-for-planet/

Stop using natural gas; it's "just another dirty fossil fuel": www.youtube.com/watch?v=x8CQ9Qrei3c

36. Global youth demand more

Globally, youth are demanding more aggressive goals.

For example, the Sunrise Movement set a goal of global reductions in greenhouse gas emissions from human sources of 40–60 percent from 2010 levels by 2030 – and a goal of net zero global emissions by 2050.

But it's more than numbers. "Climate Change is a multiplier of injustice," as Jacqueline Patterson said. She's directs the NAACP Environmental and Climate Justice Program. Climate change and pollution and environmental destruction from fossil fuel use affects poor and people of color

communities much worse than others.

The Sunrise Movement is transforming the transition off fossil fuels into an opportunity to address and remedy these systemic injustices through a fair and just transition—a massive mobilization across the nation over the next 10 years.

Portland, Oregon, is a model for climate and energy action—and youth are part of the energy transition team.

RESOURCES

Portland youth game changer
<https://ultimatecivics.org/ellas-story/>

Seattle youth game changer
<https://ultimatecivics.org/jamie-margolin-story/>

Sunrise Movement
www.sunrisemovement.org/

RESOURCES FOR EDUCATORS

A People's Curriculum for the Earth, edited by Bill Bigelow and Tim Swinehart, 2014

www.rethinkingschools.org/static/publication/apcekit/Climate-Justice-Seed-Kit-APCE-Preview.pdf

Green New Deal
www.sunrisemovement.org/gnd

YES! Magazine interview with Jacqueline Patterson, NAACP

www.yesmagazine.org/issues/just-transition/climate-justice-is-racial-justice-is-gender-justice-20170818



37. Think globally, act locally

Change the formula, change the outcome. If any one of these sources of greenhouse gas emissions is reduced, emissions drop.

According to EPA, sources of greenhouse gas emissions in the U.S. in 2015 included:

- electricity: 29% of emissions, mostly from burning fossil fuels like coal to generate power
- transportation: 27% of emissions, mostly from burning oil and natural gas
- industry: 21% of emissions, mostly from burning fuel and making products
- homes and businesses: 12% of emissions, mostly from burning fuel, product off-gassing, and handling waste
- agriculture: 9% of emissions, mostly from burning fuel, using chemicals like fertilizers, rice production, and cows.

RESOURCES FOR EDUCATORS

U.S. Dept. of Energy, Energy Info Association

https://www.eia.gov/energyexplained/?page=us_energy_home

Greenhouse gas emissions by source
<https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>

Methane emissions and frack gas
https://www.eeb.cornell.edu/howarth/publications/f_EECT-61539-perspectives-on-air-emissions-of-methane-and-climatic-warmin_100815_27470.pdf

<CLICK>

Also according to EPA, 12% of U.S. emissions are offset by our forests and land use practices. Trees and healthy soils absorb and store carbon.

If greenhouse gas emission offsets are increased, global warming impacts are reduced.

<CLICK>

- Research: Who is doing what?

Find the best renewable options for your state from Stanford's 100% renewable campaign interactive infographic. Dig into the dirt issue of YES! Magazine for ideas on soil restoration and carbon offsets.

Find out what students, schools, local organizations and clubs, farmers and food suppliers, different neighborhoods in your community, and school or city councils are doing to reduce fossil fuel use or address the inequity of our fossil fuel dependency.

- Discuss and decide: What do we want to do?

Discuss what action might be of interest and timely for your class, school, or community. If there is interest, create an action plan as a lesson extension. Local actions will create life-long lessons in civic engagement.

RESOURCES

Carbon sinks

<https://www.livescience.com/32354-what-is-a-carbon-sink.html>

Pathway to Climate Recovery
<https://www.ourchildrenstrust.org/the-science/>

The Solution Project, Stanford University
<http://thesolutionsproject.org/infographic/#>



38. What can we do locally?

Globally, nationally, and locally, people are working to transition off fossil fuel use.

- Dream: What can we do locally?

Choose a film from examples or other resources that profiles youth peers taking actions that might resonate with and inspire your students. Youth are taking action everywhere!

RESOURCES

Earth Guardians

www.earthguardians.org/

Green Schools

<https://greenschoolsnationalnetwork.org/>

Schools under 2C

www.schoolsunder2c.org/

YouCAN Campaign

www.ourchildrenstrust.org/learn-how-to-start-a-youcan-chapter

Civil Liberties Defense Center, Know your rights for youth

<https://cldc.org/youth-know-your-rights/>

39. *Ultimate Civics!* COVER SLIDE

Completion of decisions and remedies and suggested stopping point for class. Next: Game-changing state cases

We can do a lot to reduce greenhouse gas emissions in our own communities. Courts really are a last resort. Our last lesson explores how state courts are handling youth climate cases.

39. *Ultimate Civics!* COVER SLIDE



40. Essential questions

Our essential questions are:

- How is the court system organized?
- How do civil cases proceed through the court system?
- What makes constitutional rights cases “game changers”?

41. Court system: Federal and state

We are going to play Game Changer, the board game at your tables. But before we do, we need to understand how the court system is organized and how cases proceed through the court system.

The federal and state court systems are organized the same way. They each have 3 main levels.

- “district court” or “trial court”
- “appeals court”
- “supreme court”

Core vocab for this lesson is under “Court system.”

Cases start in trial courts. It’s where the trial happens, where the facts and legal arguments are examined and evaluated.

<CLICK>

The appeals court is the first level of appeal from the trial court. An appeals court can “*affirm*” (uphold) or “*deny*” a lower court’s decision – or “*remand*” (return) it to the lower court for more work. A remand is like having a teacher review your paper and return it all marked up for more work before a final grade is given.

<CLICK>

A case can be appealed and remanded several times.

<CLICK>

A case can be appealed to the supreme court from either of the lower courts. The supreme court is the highest court in a nation or state. If a supreme court takes the case and decides it (instead of remanding to a lower court), the supreme court's decision is final.

This is how cases usually proceed through the court system.

Now as we know in *Juliana v. U.S.*, the U.S. government filed three petitions with the appeals court and two with the U.S. Supreme Court to stall the trial or block the case from going to trial. This is unusual.

RESOURCES

Judicial Learning Center

<http://judiciallearningcenter.org/levels-of-the-federal-courts/>

Comparing federal and state court systems

<http://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts>

42. Legal proceedings to remedy harm

People don't always go to court to seek remedies for harm caused by government actions.

<CLICK>

In fact, before a court can take a case, people must petition the government first to ask for relief from harm caused by a government agency's rules or activities.

<CLICK>

In the federal case, youth plaintiffs were able to show that government policies over the past 50 years have created the danger to our

climate system and harmed our protected rights. So federal plaintiffs are using the court as a last resort.

<CLICK>

But many state governments have passed laws to reduce greenhouse gas emissions. In these states, youth plaintiffs must show that the laws are not working—that their protected rights are being harmed by government actions. Youth must petition the state first.

<CLICK>

If the government agency denies the petition, then people may proceed to court as a last resort to remedy the harms claimed.

43. Game changer: Mapping

There is a Game Changer board game on your table. It looks like this (on slide)—exactly what we've been talking about, only now it has dates along the bottom.

<CLICK>

There are three players and three colors: the youth (pink), the state (teal), and the court (purple).

<CLICK>

The goals of the game are to:

1. Map the stories with the game cards.
2. Identify game-changing **court rulings**.
3. Explore and compare legal proceedings in 2 states.





Game Changer instructions

- Each table has one envelope with COLORADO game cards.
- Open the envelope, take out the game cards, and share them.

<CLICK>

- Observe each card has 3 position clues: WHO, WHAT, and WHEN.
- WHEN is the clue for the horizontal position along the x-axis—the timeline.

<CLICK>

- Place all game cards by date along the timeline.
- Position yourself along the timeline.

<CLICK>

- Take the game cards from one year and read the WHO part. WHO and WHAT are the clues for the vertical position along the y-axis.

Remember—"youth petitioner" means the action was filed in the state system; "youth plaintiff" means the legal action was filed in court system.

<CLICK>

- Once everyone has positioned their data cards, we'll read the story together.

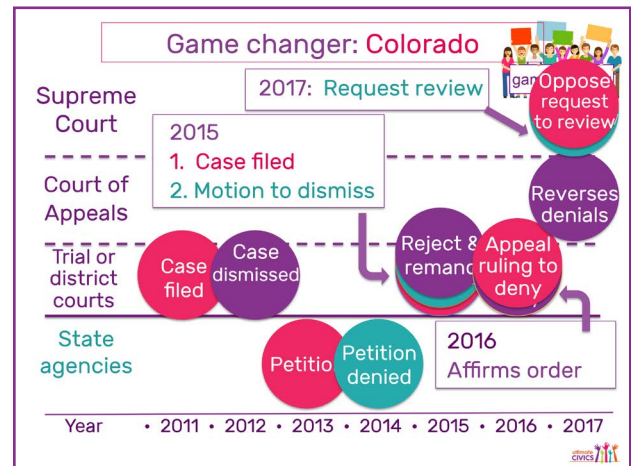


RESOURCE

State actions pending
[www.ourchildrenstrust.org/
 pending-state-actions](http://www.ourchildrenstrust.org/pending-state-actions)

44. Game changer: Colorado

See state guide.



We're going to do a couple of these cards together, and then you'll finish at your tables.

- On the **2011 data card**, WHO did WHAT?
 - » Youth plaintiffs filed a case in District Court...
- Youth "plaintiffs" tells you the action is what – a lawsuit or a petition?
 - » Lawsuit
- What court was it filed in?
 - » District Court
- Where does card go? After cards are placed, continue.

<CLICK>

- On the **2012 data card**, WHO did WHAT?
 - » District Court dismissed...

That means it's over in court; the youth plaintiffs lost the first round. So, what did the youth do next?

- On the **2013 data card**, WHO did WHAT?
 - » Youth “petitioners” petitioned...
- Youth “petitioners” tells you the action is what – a lawsuit or a petition?
 - » A petition
- Where do petitions go?
 - » State board or agency
- Where does card go? After cards are placed, continue.

<CLICK>

2012-13: Youth did not appeal the District Court’s decision to dismiss their 2011 case, but instead changed legal strategy and filed a petition through the state government. The State has laws to protect public health, the environment, and wildlife, but the state’s rules are not strict enough to enforce the law. People and wildlife are getting sick and water is being polluted from oil and gas activities.

Instructions, continued



- Work together to position all the game cards on the board.
- If there are multiple cards in one position, arrange in chronological order with oldest date at the bottom.
- During activity, circulate amongst the teams to answer questions, as needed.
- Refer students to support vocab for new words.

Discussion guide

Once all the cards are in place, ask different students to read the game cards out loud in chronological order to learn the story.

- Start from with the 2014 data card.
- <CLICK> after each reading to follow the story on the slide.
- Additional comments after reading may enrich understanding.

2014: After the state denied their petition, the youth turned to the court as a last resort

to protect the health and safety of state residents and the environment from harm due to oil and gas operations.

2016: Why did the same district court that allowed the case to proceed in 2014 turn around and deny it in 2016?

It’s noted in the court proceedings online that a different judge was presiding over the case, So, same court, different judge with different political perspective. Even though this is supposed to be a matter of law, politics often colors the game board.

2017: Notice two new players have joined the state as intervenors. The intervenors represent the oil and gas industry.

2018-19: When the Supreme Court rules against the youth plaintiffs, they filed an “extraordinary” motion for case review based on charges of judicial misconduct!

Status as of April 2019: The Colorado legislature and Governor passed a new law, removing all the legal loopholes that the state board was using to get around the law and prioritize oil and gas development at the expense of public health, welfare, wildlife, and the environment.

The state legislature and Governor vindicated the youths’ legal argument when they amended the old law to make it clear the state must protect public health, wildlife, and the environment from oil and gas development.

Instructions and discussion guide, continued

- At your tables, identify the game-changing court ruling – the ruling that affirmed the state law instead of the state board’s decisions.
- Slide the color index card under that game card on the game board.
- Ask what the groups decided, then discuss.



<CLICK>

- Why is the 2014 court ruling a game changer?

The district court affirmed state law to protect public health, the environment, and the wildlife from oil and gas development. The state board had rules that did not enforce the law. Oil and gas development allowed to harm public health, wildlife, and the environment.

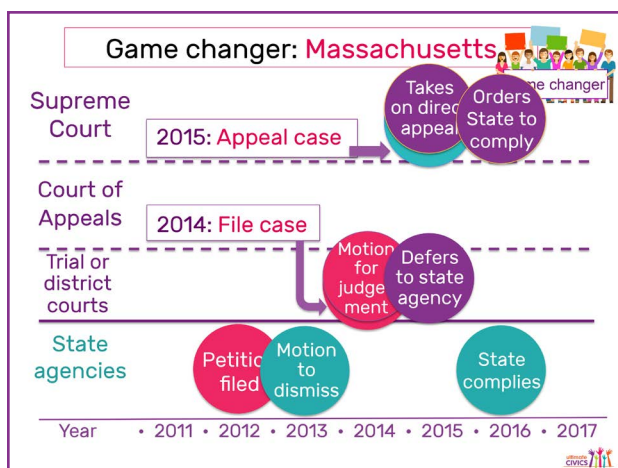
- Ask students to put game cards and index card in COLORADO envelope.
- Teacher collects COLORADO envelopes and passes out MASSACHUSETTS envelopes.

RESOURCE

Records and updates of Colorado actions
<https://www.ourchildrenstrust.org/colorado>

45. Game changer: Massachusetts

See state guide.



Instructions



- Work together at tables to position all the game cards on the board.
- Take turns reading the story at the table.
- Identify the game-changing court ruling.
- Be ready to share.

During activity, circulate amongst the teams to answer questions, as needed.

Discussion guide

- Ask different tables to explain different actions and rulings.
- <CLICK> to follow discussion, adding comments if necessary.

2012: What did the youth do first?

Youth petitioned the state agency responsible for the rules governing greenhouse gas emissions first.

2013: What was the ruling? Why?

Their case was denied, because the agency felt it was following the law – even though it could make stronger rules to reduce greenhouse gas emissions faster.

2014: What did the youth do next?

After the state denied the youths' petition, youth sued the state, claiming the state board had failed to enact more protective rules required by the new law. When the court stalled, the youth demanded a decision.

2015: What was the key ruling? Why?

The district court deferred to the state agency and the agency's science-based decision. Without further action by youth plaintiffs, this case would be over.

2015: What did the Massachusetts youth do next?

The youth were prepared for an unfavorable decision. The same day of the court ruling,



youth plaintiffs appealed the District Court's decision to the Supreme Court. The Supreme Court took the case!

2016: What was the key ruling?

Massachusetts Supreme Court decided in the youths' favor and ordered the state to address multiple sources of greenhouse gas emissions, set overall limits, and set limits that decline on an annual basis.

The Massachusetts governor and agencies complied with the order to create and conduct a comprehensive energy plan, as required by law.

<CLICK>

- What was the game-changing court ruling? Why?

The 2016 Massachusetts Supreme Court order to the state government to comply with the law. The ruling affects every citizen and every government office from state to local.

On December 12, 2018, Massachusetts published its Comprehensive Energy Plan. The Plan is a blueprint for meeting the state's energy demand through conservation, energy efficiency, and clean, affordable, reliable resources consistent the state law limiting greenhouse gas emissions.

RESOURCE FOR EDUCATORS

Massachusetts Clean Energy Plan
www.mass.gov/service-details/massachusetts-comprehensive-energy-plan-cep

RESOURCE

Records and updates of Massachusetts actions
<https://www.ourchildrenstrust.org/massachusetts/>

46. Scorecard: Compare state rulings

Let's compare what happened in Massachusetts and Colorado. <CLICK> after each answer.

- Where did states deny the youths' petitions? MA and CO
- Where were youth awarded judicial remedies (as of April 2019)? MA
- Where did the state agency and court follow state law (as of April 2019)? MA

Ask students to summarize scorecard results.

- MA: Supreme Court and Governor took action to reduce greenhouse gas emissions and transition off fossil fuels.
- CO: Supreme Court and state board took action to protect oil and gas industry over public health, wildlife, and environment.

Colorado is an oil and gas producing state. What does this scorecard suggest?

- The oil and gas industry might have strong political influence over the state board and court system in Colorado.

What did the people of Colorado do to overrule the court and state – and political influencers?

- The state legislature amended the state law to protect public health, wildlife, and environment from oil and gas development.
- Online, it explains that youth plaintiffs built a coalition of supporters from science-faith-environmental-democracy communities throughout Colorado. Youth also held rallies and marches to build a high-profile case to build awareness and support for their case among voters.



Unlike Colorado youth, Massachusetts youth started legal action by petitioning the state. Was this advantageous? Why or why not?

- The Massachusetts youth likely saved a couple of years by starting with an administrative remedy.
- The youth also built an alliance with the Massachusetts Consumers Energy Alliance. Consumers are voters. The Supreme Court ruling and Governor's Executive Order were aligned with the voters' will.

47. Reflections

Instructions



- Take a few minutes to reflect and write.
 - » What impressed you about these two state stories?
 - » What would you like to learn more about?
- Share with a partner after a few minutes.

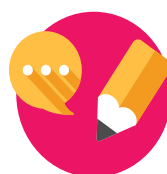
48. *Ultimate Civics!* COVER SLIDE

Determine if students are ready for a class project or extracurricular activities, based on interest from these sessions. By creating and implementing their own action plans, students will learn lifetime skills in civic engagement.

Or—combine a geography lesson with current events on youth legal actions in 13 other countries.

RESOURCE

Our Children's Trust, global legal actions
www.ourchildrenstrust.org/global-legal-actions



Instructions

- Hand out exit tickets "Our Rights, Our Future."
- Allow about 10 minutes for students to complete exercises.
- If time allows, ask students to share "take-aways," either with a partner or as a class.
- Collect as students exit.

Find Exit Ticket Guide right after the vocabulary section.



Vocabulary

Core Vocabulary

Parties to a court case

defendant: a person accused of causing the harm

intervenor: a person whom the court allows to join an ongoing court case because decisions in the case may affect that person's rights or property

plaintiff: a person who claims to have suffered harm caused by actions of another person

Elements of a court case

complaint: a document that starts a civil case and that is filed by a person who claims to have suffered harm by the actions of another person

decision: a conclusion reached by a judge or jury after an evaluation of evidence

remedy: court actions to fix the wrongful harm to the plaintiffs; judicial relief

standing: ability of a person to bring a case before a court to obtain judicial remedy or relief

trial: the judicial process of examining and evaluating facts and legal issues between parties in a case

Public Trust Doctrine

beneficiaries: under the public trust doctrine, present and future generations

common law: judge-made law that developed over time from customs and court decisions

fiduciary duty: the highest legal standard of care to another; a legal duty to act in a way that benefits someone else

public property: property owned or held in trust by the government for the people

public trust doctrine: a body of common law that requires government to take care of certain natural and cultural resources for the survival and benefit of present and future generations

reserved power: a political power that is not listed or prohibited by a constitution, but is kept by a constitution for the people or state governments

trustees: under the public trust doctrine, government

trust relationship: a legal plan in which a person(s) has a fiduciary duty to take care of property for the benefit of another person(s)

usufruct: the right to use another's property for a time without damaging or diminishing it



Vocabulary

Court system

Types of courts

appeals court: a court that hears appeals on matters of law (not fact) from a trial court

supreme court: the highest court in a state or country and final level of appeal in federal court

trial court: district court; a court where evidence and testimony are first introduced and examined, and where findings of fact and law are made

judge: a public official whose duty during a court trial is to decide rules of law and, if there is no jury, findings of fact as well

jury: a group of people who are empowered to decide the truth of disputed facts and to make findings of fact, based on the evidence, during a court trial

Support Vocabulary

administrative remedy: relief provided by an agency, board, or commission

affirm: uphold

appeal: when a case is brought before a higher court to review a lower court's decision

court order: an official court command requiring a person to do or not do something

deny: refuse to acknowledge something

dismiss: a ruling by a judge to throw out all or part of a plaintiff's case

executive order: a presidential command that interprets or puts into effect a federal law, constitutional requirement, or treaty

infringe: violate

lawsuit: a legal case where a dispute between people or artificial entities is decided in court

petition: a written application from a person to a government, public official, or court to ask for relief

precedent: a legal ruling that sets a new standard for future cases

remand: send back

rule-making: a process used by the executive branch to create or change rules or to put rules into effect



Our Rights, Our Duty

Exit ticket guide

1. **Fill in the blanks with words from the list.** Use each word once.

trial standing judge defendants plaintiffs complaint remedy jury

To start a court case, a person files a complaint. The defendants are persons accused of causing harm. If a court awards standing to the (person claiming to be harmed) plaintiffs, the case proceeds to trial. If a judge or jury finds harm, the court awards a remedy to fix the harm.

2. **Check all boxes that apply to constitutional rights cases.**

- ☒ Personal harm is caused by government actions that violate protected rights.
- ☒ Courts are last resort for relief if government refuses to stop harmful actions.
- ☒ Courts remedy harm by declaring people's rights and ordering government to act.
- ☒ Court remedies cause people to change the way they think or act in society.

3. **Read the statement and circle your answer: true or false?**

true false New fundamental rights are recognized under the 9th Amendment and the 14th Amendment.

true false Fundamental rights must be deeply rooted in our nation's history or central to our order of society.

4. **Read the statement and circle your answer: true or false?**

true false Core concepts of the Public Trust Doctrine pre-date our Constitution.

true false The Public Trust Doctrine is rooted in reserved power of the people.

true false The Public Trust Doctrine is common law made by judges.

true **false** People have no constitutional rights under the Public Trust Doctrine.

5. **Are pollinators critical for human survival?** Circle one: **YES** NO

If yes, what other resources support or are supported by healthy pollinators?

Check all boxes that apply.

- | | |
|--|--|
| <input checked="" type="checkbox"/> healthy soil | <input checked="" type="checkbox"/> healthy plants & flowers |
| <input checked="" type="checkbox"/> world food supply | <input checked="" type="checkbox"/> clean water |
| <input checked="" type="checkbox"/> healthy atmosphere | <input checked="" type="checkbox"/> natural wildlife predators |
| <input checked="" type="checkbox"/> clean air | <input checked="" type="checkbox"/> stable climate system |
| <input checked="" type="checkbox"/> traditional plant medicine | |

6. **What is your favorite part of these lessons?**



Our Rights, Our Future

Exit ticket guide

1. In a constitutional rights case, what are examples of remedies for harm?

Check all boxes that apply.

- ☒ Court declares harm to a constitutional right.
- ☒ Court recognizes a new constitutional right.
- ☒ Court orders government to stop action causing harm.
- ☒ Court orders government to protect and restore public trust resources.

2. In youth climate cases, match letter of harm with remedy for harm.

A DUE PROCESS B EQUAL PROTECTION C PUBLIC TRUST RIGHTS D ALL

- C Court recognizes a healthy atmosphere and stable climate system as critical resources under the Public Trust Doctrine.
- A Court recognizes a new constitutional right to a healthy atmosphere and stable climate system under Due Process Clause of 5th Amendment.
- D Court orders government to create and put into effect a science-based climate recovery plan.
- B Court declares harm to equal protection rights under 5th Amendment.

3. What makes a civil case a potential game changer? Check boxes that apply.

- ☒ It is a constitutional rights case.
- ☒ It could recognize new constitutional rights.
- ☒ It could establish harm to existing constitutional rights.
- ☒ It could change the way people behave or act in society.
- ☒ It could recognize new critical resources under the Public Trust Doctrine.

4. Match the letter for the court with its description.

A District Court B Appeals Court C Supreme Court

- A Where complaints are filed to start a legal proceeding.
- C Has final say on matters of constitutional rights.
- B Commonly hears appeals from trial court.

5. In the U.S., who is responsible for taking care of natural and cultural resources critical for human survival? Check all that apply.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Federal, state, and local governments | <input checked="" type="checkbox"/> Federal and state courts |
| <input checked="" type="checkbox"/> Businesses and home owners | <input checked="" type="checkbox"/> Voters, citizens, people |
| <input checked="" type="checkbox"/> Schools | <input checked="" type="checkbox"/> Me |

6. What is your “take-away” from this lesson?



Resources – Lesson 6

Sessions 1 & 2

Class Prep

1: Why pretend everything's okay? A call to action. VIEW Greta's TEDx talk 2018

2: Why are youth suing the federal government? VIEW CBS News 2019

Profiles and stories on federal youth plaintiffs and Julia Olson

CBS News 2019: www.cbsnews.com/news/juliana-versus-united-states-the-climate-change-lawsuit-that-could-stop-the-u-s-government-from-supporting-fossil-fuels-60-minutes/

CNN, 2016: www.cnn.com/2016/09/12/opinions/sutter-julia-olson-climate-kids-profile/

National Geographic 2017: news.nationalgeographic.com/2017/03/kids-sue-us-government-climate-change/

Vogue 2019: www.vogue.com/article/youth-v-gov-fight-for-future-april-2019-issue

About the federal case Juliana v. U.S.

Case updates, Our Children's Trust: www.ourchildrenstrust.org/juliana-v-us

Greta Thunberg

www.theguardian.com/world/2019/mar/11/greta-thunberg-schoolgirl-climate-change-warrior-some-people-can-let-things-go-i-cant

www.theguardian.com/environment/live/2019/mar/15/climate-strikes-2019-live-latest-climate-change-global-warming

TEDx talk Nov. 2018: www.ted.com/talks/greta_thunberg_the_disarming_case_to_act_right_now_on_climate?language=en

Sessions 3 & 4

Class Prep

3: How can our state become 100 renewable energy? EXPLORE with interactive map "The Solution Project"

4: What are youth doing in state courts to drive climate action? EXPLORE some pending state actions

Understanding science and solutions of climate change

Carbon sinks: www.livescience.com/32354-what-is-a-carbon-sink.html

How much oxygen is produced from ocean plants? earthsky.org/earth/how-much-do-oceans-add-to-worlds-oxygen

Pathway to Climate Recovery: www.ourchildrenstrust.org/the-science/

The Solution Project, Stanford University: <http://thesolutionsproject.org/infographic/#>

Why is the atmosphere important to life on Earth? www.ck12.org/earth-science/importance-of-the-atmosphere/lesson/Importance-of-the-Atmosphere-HS-ES/



Resources – Lesson 6

About courts

Comparing federal and state court systems: www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts

Judicial Learning Center: <http://judiciallearningcenter.org/levels-of-the-federal-courts/>

About other cases

Pending state youth legal actions: www.ourchildrenstrust.org/pending-state-actions

Colorado youth legal actions: www.ourchildrenstrust.org/colorado

Massachusetts youth legal actions: www.ourchildrenstrust.org/massachusetts/

Pending global youth legal actions: www.ourchildrenstrust.org/global-legal-actions

Films about youth actions to reduce greenhouse gas emissions

Close coal-fired power plants: www.youngvoicesfortheplanet.com/youth-climate-videos/words-have-power/

Conduct energy audit: www.youngvoicesfortheplanet.com/youth-climate-videos/dreaming-in-green/

Install solar panels: www.youngvoicesfortheplanet.com/youth-climate-videos/save-tomorrow/

Join Schools Under 2° C: www.broweryouthawards.org/winner/anne-lee/

Plant trees: www.youngvoicesfortheplanet.com/youth-climate-videos/plant-for-planet/

Stop using natural gas; it's "just another dirty fossil fuel": www.youtube.com/watch?v=x8CQ9Qrei3c

Youth activists & organizations for climate justice

Ella's story: <https://ultimatecivics.org/ellas-story/>

Jamie's story: <https://ultimatecivics.org/jamie-margolin-story/>

Ta'Kaiya Blaney, Earth Revolution: www.youtube.com/watch?v=I9tTdy4OnQs

Xiuhtezcatl: www.xiuhtezcatl.com/projects/

Earth Guardians: www.earthguardians.org/

Green Schools: greenschoolsnationalnetwork.org/

iMatter: www.imatter.org/

This is Zero Hour: thisiszerohour.org/

Schools Under 2 C: www.schoolsunder2c.org/

Sunrise Movement: www.sunrisemovement.org/

YouCAN Campaign: www.ourchildrenstrust.org/learn-how-to-start-a-youcan-chapter

YouthvGov: www.youthvgov.org

Defending common law rights

Civil Liberties Defense Center: cldc.org/youth-know-your-rights/



Educator Resources

Session 1

Youth plaintiffs' statements of standing in Juliana v. U.S.

Statements of standing, primary source, *Juliana v. U.S.*, Complaint, Sept. 10, 2015: www.ourchildrenstrust.org/court-orders-and-pleadings

Tampering with history: Adapting primary sources for struggling readers

<https://jwa.org/sites/jwa.org/files/mediaobjects/tamperingwithhistory.pdf>

Updates on claims of harm—See Preliminary Injunction, Feb. 8, 2019, dropbox with statements from individual plaintiffs: www.ourchildrenstrust.org/juliana-v-us

Understanding the challenges to standing

Youth plaintiffs' gain standing in *Juliana v. U.S.*, Opinion and Orders, Nov. 10, 2016, and June 28, 2017: www.ourchildrenstrust.org/court-orders-and-pleadings

Trump lawyers fight to stop youth climate case: www.climatechangenews.com/2017/06/12/trump-lawyers-use-extraordinary-trick-quash-youth-climate-case/

On why case should go to trial—See dissenting opinion in Order, Dec. 26, 2018: www.ourchildrenstrust.org/court-orders-and-pleadings

Session 2

How some of our constitutional rights came to be

1st Amendment & common law background: www.law.cornell.edu/constitution-conan/amendment-1/adoption-and-the-common-law-background

14th Amendment, incorporation of Bill of Rights: legal-dictionary.thefreedictionary.com/Substantive+Due+Process

14th Amendment, reverse incorporation into Bill of Rights: en.wikipedia.org/wiki/Bolling_v._Sharpe supreme.justia.com/cases/federal/us/347/497/case.html

About the Public Trust Doctrine

Origins of Public Trust Doctrine: www.britannica.com/topic/Code-of-Justinian
www.britannica.com/topic/common-law

Public Trust Doctrine, A Primer: https://law.uoregon.edu/images/uploads/entries/PTD_primer_7-27-15_EK_revision.pdf

Illinois Central Railroad Company v. Illinois, 1892: www.casebriefs.com/blog/law/property/property-keyed-to-merrill/values-subject-to-ownership/illinois-central-railroad-co-v-illinois/

Public trust foundation and claims: See U.S. District Judge Ann Aiken, Opinion and Order, Nov. 10, 2016, pp. 36–49: www.ourchildrenstrust.org/court-orders-and-pleadings



Educator Resources

Mary Wood, *Nature's Trust: Environmental Law for a New Ecological Age* (Cambridge University Press, 2014)

Perspectives on Juliana v U.S.

www.huffingtonpost.com/peter-neill/our-childrens-trust-and-t_b_9734058.html
vjel.vermontlaw.edu/topten/juliana-v-united-states-constitution-guarantee-livable-planet-kids/

About establishing new rights

Fundamental rights, U.S. District Judge Ann Aiken, Opinion and Order, Nov. 10, 2016, pp. 29–33:
www.ourchildrenstrust.org/court-orders-and-pleadings

U.S. Supreme Court caseload: www.supremecourt.gov/about/justicecaseload.aspx

U.S. Supreme Court and civil rights decisions: civilrights.findlaw.com/civil-rights-overview/civil-rights-u-s-supreme-court-decisions.html

10 Supreme Court cases about the 14th Amendment: <https://constitutioncenter.org/blog/10-huge-supreme-court-cases-about-the-14th-amendment>

Exploring law through definitions

Legal vocabulary: legal-dictionary.thefreedictionary.com/

Session 3

Court remedies

Brown v. Board of Education: www.history.com/topics/black-history/brown-v-board-of-education-of-topeka

Public Trust Doctrine, A Primer: https://law.uoregon.edu/images/uploads/entries/PTD_primer_7-27-15_EK_revision.pdf

Injunction as remedy: Preliminary injunction motion in *Juliana v. U.S.*, February 8, 2019: <https://www.ourchildrenstrust.org/court-orders-and-pleadings>

Understanding the science

A People's Curriculum for the Earth, edited by Bill Bigelow and Tim Swinehart, 2014: www.rethinkingschools.org/static/publication/apcekit/Climate-Justice-Seed-Kit-APCE-Preview.pdf

Methane emissions and frack gas: www.eeb.cornell.edu/howarth/publications/f_EECT-61539-perspectives-on-air-emissions-of-methane-and-climatic-warmin_100815_27470.pdf

U.S. Dept. of Energy, Energy Info Association: www.eia.gov/energyexplained/?page=us_energy_home

U.S. Environmental Protection Agency: www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions



Educator Resources

Session 4

About courts

Comparing federal and state court systems: www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts

Judicial Learning Center: <http://judiciallearningcenter.org/levels-of-the-federal-courts/>

City and state solutions for fair and just transition

Green New Deal: www.sunrisemovement.org/gnd

Massachusetts Clean Energy Plan: www.mass.gov/service-details/massachusetts-comprehensive-energy-plan-cep

Portland model for climate and energy action: <https://sustainable-economy.org/the-portland-model-for-climate-and-energy-action/>

Portland Resolution for climate literacy in schools: www.pps.net/cms/lib/OR01913224/Centricity/Domain/219/FINAL%20Climate%20Change%20Reso%205.11.16%20MR%20revised.pdf

Portland Resolution for renewable energy by 2050 includes Youth Climate Action Committee: www.portlandoregon.gov/auditor/article/642811

Portland Clean Energy Fund: <https://portlandcleanenergyfund.org/>

YES! Magazine interview with Jacqueline Patterson, NAACP: www.yesmagazine.org/issues/just-transition/climate-justice-is-racial-justice-is-gender-justice-20170818

