

THE RULE OF LAW

SS.7.CG.1.11 Define the rule of law and recognize its influence on the development of legal, political and governmental systems in the United States.

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2023 BENCHMARK UPDATES
<ul style="list-style-type: none"> Updated from SS.7.C.1.9 <ul style="list-style-type: none"> Changed from “Define the rule of law and recognize its influence on the development of the American legal, political, and governmental systems.” to “Define the rule of law and recognize its influence on the development of legal, political, and governmental systems <u>in the United States</u>.” Depth of Knowledge Changes within Benchmark <ul style="list-style-type: none"> No changes Benchmark Clarification Changes <ul style="list-style-type: none"> Deletion of “Students will distinguish between the characteristics of a society that operates under the rule of law and one that does not.” Addition of, “Students will compare and contrast the characteristics of a society that operates under the rule of law and one that does not.” Addition of, “Students will analyze the meaning and importance of due process in the United States legal system.” Changed from “Students will evaluate the impact of the rule of law on governmental officials and institutions (accountability to the law, fair procedures, decisions based on the law, consistent application, enforcement of the law, and transparency of institutions).” to “Students will evaluate the impact of the rule of law on governmental officials and institutions (e.g., accountability to the law, consistent application <u>and</u> enforcement of the law, decisions based on the law, fair procedures, transparency of institutions).” (<i>the order of examples changed</i>) Vocabulary Changes <ul style="list-style-type: none"> No changes

Essential Teacher Content Background Information

[Teacher Content Notes Not Appropriate For Student Use]

This section addresses the following topics:

1. The Role of the Rule of Law in a Democracy
2. The Forms that the Rule of Law Takes in a Democracy
3. Influence of Due Process in a Democracy

1. The Role of the Rule of Law in a Democracy

The principle of the rule of law dominates the formation of government institutions in democracies. The concept of democracy is the notion that the people rule through their government. There are several ways that the people rule through their government including, but not limited to, electing their legislators and chief executives, using their protected freedoms such as speech, peaceable assembly and petitioning the government, and exercising their responsibilities as citizens.

In a democracy, the government is responsible for protecting all citizens through the rule of law. The rule of law is the notion that all citizens are protected from arbitrary and abusive uses of government power. The rule of law applies to non-citizens as well although not all aspects of the rule of law guaranteed to citizens are guaranteed to non-citizens. There are certain aspects of the rule of law that are applied differently to certain citizens such as minors (juveniles) and the mentally disabled.

In the U.S., the rule of law is found in the U.S. Constitution, the Bill of Rights, and other amendments to the U.S. Constitution. The U.S. Constitution provides for separation of powers and checks and balances, which are meant to protect citizens from government abusing its power. Separation of powers separates the three aspects of the lawmaking process (legislative, executive, judicial) from one another. Individuals are not allowed to hold more than one public office at the same time while only U.S. citizens may hold public office.

Still, separation of powers alone does not prevent arbitrary and abusive uses of government power. Tempering the potential for abuse of government power is achieved with checks and balances. Other aspects of the rule of law are also addressed through the separation of powers and checks and balances systems.

2. The Forms that the Rule of Law Takes in a Democracy

The terms associated with various aspects of the rule of law may vary based on the organization or institution using them. Below is a matrix that clarifies potential sources of confusion.

Term in Benchmark Clarifications	Meaning	Alternative Term
accountability to the law	Accountability refers to the processes, norms, and structures that hold the population and public officials legally responsible for their actions and that impose sanctions if they violate the law. Accountability is essential if systemic threats to the rule of law are to be corrected. This involves ensuring there are consequences for criminal behavior; ...and horizontal accountability (state institutions overseeing the actions of one another) and	checks and balances

Term in Benchmark Clarifications	Meaning	Alternative Term
	<p>vertical accountability (citizens overseeing the actions of the state)...The concentration of power in any one branch, institution, or level of government often leads to abuse of power and corruption that horizontal and vertical accountability mechanisms can help prevent.</p> <p>Adapted from “What is accountability to the law?” available at U.S. Institute of Peace (www.usip.org)</p>	
fair procedures	<p>Procedural fairness includes that decisions will be made on the basis of a set of established rules that are known. For example, if there were no laws about wearing hats in public, it would be unfair for a person who wore hats in public to be punished by the legal system.</p> <p>Adapted from HSC Legal Studies available at the State Library of New South Wales (http://www.sl.nsw.gov.au/)</p>	procedural fairness
decisions based on the law	<p>A person who is affected by a decision made by the legal system has a right to present their views and facts that support that view (evidence) to the decision maker before the decision is made. It also means that a person who is accused of doing something wrong has a right to be told what it is they are said to have done wrong and to be shown the evidence against them so that they can defend themselves against the accusation.</p> <p>Adapted from HSC Legal Studies available at the State Library of New South Wales (http://www.sl.nsw.gov.au/)</p>	legitimacy
consistent application	<p>Equality before the law is the notion that each person should be treated in the same way by the legal system no matter who they are. For example, the legal system must not make a different decision because a person is richer or poorer than another person, or because a person comes from another country. It means that everyone should be able to access the law and the legal system equally. It also means that the law applies equally to everyone. No person is above the law, no matter what position they hold in society.</p> <p>Adapted from HSC Legal Studies available at the State Library of New South Wales (http://www.sl.nsw.gov.au/)</p>	equal application of the law
enforcement of the law	<p>Human security is one of the defining aspects of any rule of law society. Protecting human security, mainly assuring the security of persons and property, is a fundamental function of the state. Not only does violence impose wounds on society, it also prevents the achievement of other aims, such as exercising fundamental human rights, and ensuring access to opportunities and justice. In extreme situations, violence might become the norm if legal rules are not enforced. Under the rule of law, the state must effectively prevent crime and violence of every sort, including political violence and vigilante justice. It encompasses three dimensions: absence of crime; absence of civil conflict, including terrorism and armed conflict;</p>	order and security

Term in Benchmark Clarifications	Meaning	Alternative Term
	<p>and absence of violence as a socially acceptable means to redress personal grievances.</p> <p>Adapted from “Order and Security” available at the World Justice Project (www.worldjusticeproject.org).</p>	
transparency of institutions	<p>Transparency is what happens when the legal system can be seen and understood by the general public, that courts and tribunals are open to the public, rather than their decisions being made behind closed doors.</p> <p>Adapted from HSC Legal Studies available at the State Library of New South Wales (http://www.sl.nsw.gov.au/)</p> <p>Access to justice is more than improving an individual’s access to courts or guaranteeing legal representation. Access to justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. There is no access to justice where citizens (especially marginalized groups) fear the system, see it as alien, and do not access it; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system.</p> <p>Adapted from “What is access to justice?” available at U.S. Institute of Peace (www.usip.org)</p>	access to justice

3. Influence of Due Process in a Democracy

Due process of law was established by the founding fathers over their concerns for an abuse of power by the government. Due process of law is the system put in place that allows for rule of law to be applied. In a democracy, the procedures that must be followed, due process, allows for fair and equal treatment for all people. By adding in a process that made laws fair and impartial, citizens would be held accountable for their actions no matter who they are. Due process of law is used for accused people to decide if they have violated the law and to what extent the punishment should be applied.

Due process has fair procedures to decide whether people have extended their rights or were within their rights, given to them by the U.S. Constitution.

Some examples of due process are:

- A. Right to a public trial or proceeding
- B. Right to see evidence the police have collected, if accused of a crime
- C. Right to question any witnesses, if accused of a crime
- D. Right to an attorney
- E. Right to remain silent, if suspected of a crime

Lesson Summary

ESSENTIAL QUESTION			
What is the impact of the rule of law on society?			
BENCHMARK			
SS.7.CG.1.11 Define the rule of law and recognize its influence on the development of legal, political and governmental systems in the United States.			
CIVICS EOC REPORTING CATEGORY			
N/A			
OVERVIEW			
In this lesson, students will define and recognize the concept of rule of law and why we have laws, focusing on the notion that all citizens are subject to the law.			
BENCHMARK CLARIFICATIONS			
<ul style="list-style-type: none">• Students will compare and contrast the characteristics of a society that operates under the rule of law and one that does not.• Students will assess the importance of the rule of law in protecting citizens from arbitrary and abusive uses of government power.• Students will analyze the meaning and importance of due process in the United States legal system.• Students will evaluate the impact of the rule of law on governmental officials and institutions (e.g., accountability to the law, consistent application and enforcement of the law, decisions based on the law, fair procedures, transparency of institutions).			
BENCHMARK CONTENT LIMITS			
N/A			
CIVICS CONTENT VOCABULARY			
<ul style="list-style-type: none">• citizen, due process, law, rule of law			
INSTRUCTIONAL STRATEGIES			
Video as text	Guided discussion	Role-play	Reading complex text
MATERIALS			
<ul style="list-style-type: none">• Rule of Law Questions and Terms slides• Rule of Law Viewing Guide• Court Shorts: Rule of Law video (external link)			

- Frost/Nixon video (external link)
- Presidential Quotations slides
- Rule of Law Skit Scripts
- Rule of Law Skit Activity worksheet
- Rule of Law Case Studies

B.E.S.T. STANDARDS

ELA.7.R.3.2- Paraphrase content from grade-level texts.

ELA.7.V.1.1- Integrate academic vocabulary appropriate to grade level in speaking and writing.

ELA.K12.EE.1.1- Cite evidence to explain and justify reasoning.

Suggested Student Activity Sequence & Pace

DAY	ACTIVITY SEQUENCE
DAY 1	<ol style="list-style-type: none"> To begin this lesson, project the “Rule of Law Questions and Terms” slides and stay on the questions on slide 1. Instruct students to write the questions on their own notebook paper and brainstorm answers for each question independently. Have students share out and review the answers as a whole class. Project the term ‘rule of law’ on slide 2 and instruct students to brainstorm and share out what they think this phrase means. Teacher Note: Capture student ideas on the board or large paper to revisit at the end of the lesson. Explain to students that they will next watch a video explaining the concept of rule of law in detail. Pass out the “Rule of Law Viewing Guide” and complete the first question together, after brainstorming. Play the “Court Shorts: Rule of Law” video from the U.S. Courts and instruct students to answer the questions as they follow along. Pause the video after each section listed in the viewing guide to allow for students to answer questions and review as a whole group before moving to the next section of the video. Teacher Note: The viewing guide headings are aligned to the video sections. Pause the video as the titles appear. Continue pausing and reviewing the video for each section. Conclude the activity by answering question #7 and pulling in examples from the video. Go back to the “Rule of Law Questions and Terms” slides, slide 3, which adds the phrase ‘due process’. Ask students how rule of law connects to due process. Explain the relationship that rule of law is the idea that no one is above the law but due process refers to the procedures that are followed to ensure that everyone is treated equally under the law. Teacher Note: The concept of due process appears in SS.7.CG.1.2, SS.7.CG.1.3 and SS.7.CG.1.9 and may need to be reviewed, depending on when these benchmarks have been covered. Checking for Understanding (Formative Assessment): Instruct students to write a well-crafted informative response to the following prompt: <u>Prompt</u> Use evidence from the video to explain the concept of rule of law. As part of the explanation, explain how the rule of law protects citizens.

DAY 2	<ol style="list-style-type: none"> Show students the following “Frost/Nixon” video clip from the movie Frost/Nixon depicting the 1977 interview between President Richard Nixon and journalist David Frost. Project the following “Presidential Quotations” slides with statements from former President John Adams and former President Richard Nixon and read them together. Use slide 2 and pose the following questions to students: Based on both quotes, how would you summarize John Adams’ and Richard Nixon’s points of view? Are they similar or different? How are the differences related to the rule of law? Instruct students to write out
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	<p>their responses.</p> <ol style="list-style-type: none"> Review the quotes as a whole group and reinforce the concept of rule of law and why it is important that everyone is treated equally under the law. Explain to students that next they will be applying and expanding their knowledge of rule of law by performing and watching skits. Explain to students that they will learn about six factors that make up the rule of law, and there will be one skit for each factor. Explain that the skits will also show what would happen if there was NO rule of law. <p>Teacher Note: These factors were adapted from the U.S. Agency for International Development.</p> <ol style="list-style-type: none"> Move students into six skit groups and assign each group one of the “Rule of Law Skit Scripts” from the iCivics Rule of Law lesson. <p>Teacher Note: There are six different scripts and the amount of roles for each skit varies; be sure to preview the scripts before breaking students into groups.</p> <ol style="list-style-type: none"> Allow the groups to read and practice the skits for 10 minutes. Regroup the class and distribute a “Rule of Law Skit Activity” worksheet to each student. Begin the skit performances with Skit #1: Order and Security. Instruct students to turn their attention to their “Rule of Law Skit Activity” worksheet and answer the questions for Skit #1: Order and Security. Review as a whole class. Complete this process for the remaining skits. <p>Teacher Note: Skits can be cut down to meet the needs of class time or extended into Day 3 instruction.</p> <ol style="list-style-type: none"> Pose the following questions for discussion: The skits gave us examples of a society with no rule of law, how would these skits be different if they were examples of a society with a rule of law? (sense of order, fairness, equal application of the law) How would your character’s actions change? In general, what does a society with a rule of law look like? What are some examples from real life?
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DAY 3	<ol style="list-style-type: none"> Project the “Presidential Quotations” slides from yesterday and re-read the President John Adams quote. Pose the following questions for discussion: Based on what you have learned from the skits yesterday, why do you think President Adams would make this statement? What might occur with a government of men? What is the impact of the rule of law on government? Lead students to the understanding that the rule of law creates a government where people and institutions are accountable to the law, fair procedures are used, decisions are based on the law and these decisions are applied consistently. The rule of law protects citizens from governments unnecessarily or randomly abusing laws. Explain to students that today they will be looking at case studies related to the rule of law. Move students into small working groups and pass out “Rule of Law Case Studies”. Assign Case Study #1 to half of the groups and Case Study #2 to the other half. Instruct students to work in their groups to preview the guiding questions, read their Case Study, answer the guiding questions and select a spokesperson to share the group’s case with the rest of the class. Students should also consider the following questions when preparing to
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share their responses with the class.

- What is their case study about?
- What amendment was at issue in the case study?
- What was the problem in the case study scenario?
- What did the group decide the court's ruling should be?

Teacher Note: Utilize the answer keys provided below to ensure that students are providing accurate information.

7. Review each of the Case Studies by calling on various spokespeople from the groups assigned to them.
8. Share the outcome of each court case with the class after each case study has been presented and pose the following questions for discussion: What evidence or reasons from the case did you find that could support the court's decision? Do you agree or disagree with the outcome of the case?
9. Checking for Understanding (Formative Assessment)

Instruct students to write a well-crafted informative response to the following prompt:

Prompt

President Theodore Roosevelt made the following statement: *No man is above the law and no man is below it...* Using what you have learned in this lesson and citing specific examples from the videos and lesson activities, explain this quote in your own words and how it relates to the concept of rule of law.

Civics Content Vocabulary

Word/Term	Definition
citizen	a legal member of a state and/or country
due process	the right of people accused of crimes to have laws that treat them fairly, so that they cannot lose their life or freedom without having their legal rights protected
law	a rule established by government or other source of authority to regulate people's conduct or activities
rule of law	the idea that those who govern must follow the laws; no one is above the law

ADDITIONAL RESOURCES

[Civics 360 Resources](#)

Florida Department of Education's Civic Literacy Reading List

- *Democracy* by Sue Hurwitz
- *The Democratic Process* by Mark Friedman

ANSWER KEYS

Sample Answers: Rule of Law Viewing Guide

Sample Answers: Rule of Law Skit Activity worksheet

Sample Answers: Rule of Law Case Studies

Written Response: Sample Scoring Rubric

SOURCES

United States Courts video: <https://www.youtube.com/watch?v=bmAKAHDSnGs>

Frost/Nixon Interview Clip: https://www.youtube.com/watch?v=L_0Icc6cmRk

The Center for Teaching the Rule of Law, The Law Rules video:

<https://www.youtube.com/watch?v=DEFB8WBIw5A>

Rule of Law Lesson Plan from iCivics: <http://www.icivics.org/teachers/lesson-plans/rule-law>

U.S Constitution Text: <http://constitutioncenter.org/media/files/constitution-full-text.pdf>

Street Law at the University of Washington Law School:

<https://www.law.washington.edu/students/streetlaw/lessons.aspx>

Rule of Law Case Studies: <https://www.thecenterforruleoflaw.org/case-studies.html>

John Adams Quote: <http://www.john-adams-heritage.com/quotes/>

Theodore Roosevelt Quote:

http://www.theodoreroosevelt.org/site/c.elKSIdOWIiJ8H/b.9297493/k.7CB9/Quotations_from_the_speeches_and_other_works_of_Theodore_Roosevelt.htm, Accessed April 2013