

## RIGHTS IN THE U.S. CONSTITUTION

**SS.7.CG.2.3** Identify and apply the rights contained in the Bill of Rights and other amendments to the U.S. Constitution.

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### 2023 BENCHMARK UPDATES

- Updated from SS.7.C.2.4
  - Changed from, “~~Evaluate~~ rights contained in the Bill of Rights and other amendments to the Constitution.” to “Identify and apply the rights contained in the Bill of Rights and other amendments to the U.S. Constitution.”
- Depth of Knowledge Changes within Benchmark
  - Changed from “Evaluate” to “Identify and apply”
- Benchmark Clarification Changes
  - Changed from, “Students will evaluate how the Bill of Rights influences individual actions and social interactions.” to “Students will evaluate how the Bill of Rights and other amendments (e.g., 13th, 14th, 15th, 19th, 24th, 26th) influence individual actions and social interactions.”
- Vocabulary Changes
  - No changes

## Essential Teacher Content Background Information

*[Teacher Content Notes Not Appropriate For Student Use]*

**This section addresses the following topics:**

1. The U.S. Bill of Rights: Substance, Background and Ratification
2. Extension of the Bill of Rights to the States
3. The Florida Declaration of Rights: Substance, Background and Ratification

### **1. The U.S. Bill of Rights: Substance, Background and Ratification**

The “Bill of Rights” is the first ten amendments of the U.S. Constitution; the Bill of Rights was ratified in 1791. It was intended to protect the people from the federal government abusing its power, specifically as to the rights of political and religious expression, the rights and protections afforded individuals accused of crimes, private property protection, and the rights of the people as they relate to federal and state laws. The Bill of Rights also includes rights related to gun ownership and the housing (quartering) of soldiers.

While the Bill of Rights was not included in the original U.S. Constitution, the notion that the federal government would abuse its powers relative to the people was very much a part of the constitutional debate. The Anti-Federalists, who advocated states’ rights and decentralized government, strongly opposed the federal, shared powers arrangement advocated by the Federalists reflected in the U.S. Constitution. The Anti-Federalists feared that the failure of the Federalists to include rights that would protect the people from the federal government would result in that government abusing its newly acquired power. The Anti-Federalists suggested a compromise position where, once the Constitution was ratified, a series of amendments enumerating specific protections would be considered by the new Congress.

The first word of the Bill of Rights, “Congress”, speaks to the focus of the Bill of Rights on the federal government. Under the Bill of Rights, citizens are guaranteed the right to free speech, free press, free religious exercise, assembly, and the right to petition the government. Citizens are also guaranteed that Congress will not establish a religion, which is a right related to, though different from, free religious exercise. The Bill of Rights also protects those accused of a crime in that they are entitled to due process of law, and are protected from incriminating themselves, “cruel and unusual” punishment, unreasonable search and seizure and being tried twice for committing the same crime. The concept of “due process” also includes the right to legal representation in criminal trials, the right to face one’s accuser, and the right to trial by jury. The Bill of Rights also protects property rights in that citizens may not be forced to house military personnel during peacetime and only during wartime by an Act of Congress, and that citizens’ property may only be taken with “just compensation”.

The Ninth Amendment recognizes that the Bill of Rights does not include all rights that are protected by the Bill of Rights. The Ninth Amendment states that rights that are not otherwise listed (enumerated) remain extended to the people. Rights not listed in the first eight amendments that have been recognized by the U.S. Supreme Court as Ninth Amendment rights include the right to privacy and the right to have children.

Other rights that have been extended to citizens linked to political expression include the right to vote (suffrage). These rights are enumerated in the 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 19<sup>th</sup> and 26<sup>th</sup> amendments as they extend to specific populations, as well as other voting rights related to election procedures (24<sup>th</sup> Amendment).

Event	Year	Event details and/or event impact on social movements
13 <sup>th</sup> Amendment	1865	Text: Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.
14 <sup>th</sup> Amendment	1868	Text: Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. <b>Note: The 14<sup>th</sup> Amendment has four sections</b>
15 <sup>th</sup> Amendment	1870	Text: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
Hayes-Tilden Compromise	1877	Suppressed black turnout Fraud used to under the effect of votes already cast
Former confederate states amended constitutions and enacted laws to disenfranchise African-Americans	1890-1910	These laws included poll taxes, literacy tests, vouchers of “good character” (persons already registered had to vouch for applicants that they met residency qualifications) and disqualification for “crimes of moral turpitude”.
<i>Guinn v. United States</i> , 238 U.S. 347	1915	U.S. Supreme Court held that voter registration requirements that included “grandfather clauses” violated the 15 <sup>th</sup> amendment. Grandfather clauses extended voter registration to those who were descended from men who had the right to vote before the 15 <sup>th</sup> amendment was ratified in 1870.
19 <sup>th</sup> Amendment	1920	Text: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.
Equal Rights Amendment	1923	a proposed amendment to the U.S. Constitution outlawing discrimination based on sex first introduced by Alice Paul
<i>Smith v. Allwright</i> , 321 U.S. 649	1944	U.S. Supreme Court held that Texas white primary violated the 15 <sup>th</sup> amendment. The Texas Democratic party prohibited African-Americans from voting in their primaries; as few, if any, Republicans ran for office, the winner of the Democratic primary won the general election by default.

Event	Year	Event details and/or event impact on social movements
Civil Rights Act of 1957	1957	Created the Civil Rights Division within the U.S. Department of Justice and the Commission on Civil Rights Attorney General granted authority to intervene on behalf of those whose 15 <sup>th</sup> amendment rights had been violated
Civil Rights Act of 1960	1960	Allowed federal courts to appoint voting referees to conduct voter registration
<i>Gomillion v. Lightfoot</i> , 364 U.S. 339	1960	U.S. Supreme Court held that the state legislature's gerrymandered boundaries of Tuskegee, Alabama violated the 15 <sup>th</sup> amendment
24 <sup>th</sup> Amendment	1964	Text: The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.
Civil Rights Act of 1964	1964	Contained several minority voting-related provisions
Voting Rights Act of 1965	1965	Outlawed discriminatory voting practices directed against African-Americans Prohibited states from imposing any "voting qualification or prerequisite to voting, or standard, practice, or procedure ... to deny or abridge the right of any citizen of the United States to vote on account of race or color." Outlawed the use of literacy tests as a condition of voter registration Established federal oversight of election administration
Civil Rights Act of 1968 (Note: Also known as the "Fair Housing Act")	1968	a federal law that prohibits discrimination related to the sale, rental and financing of housing based on race, religion, national origin or sex
26 <sup>th</sup> Amendment	1971	Text: The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

## 2. Extension of the Bill of Rights to the States

The Bill of Rights has been subject to extensive interpretation by the U.S. Supreme Court. Many argue that the most notable interpretation occurred when the Court decided, in *Gitlow v. New York* (1925), that the 14th amendment could serve as a tool for applying the Bill of Rights to state law. The 14th amendment includes "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The *Gitlow* case extended the "equal protection" and "due process" clauses of the Bill of Rights to the states on a selective basis. Because states may not deny U.S. citizens their due process and equal protection rights under the 14th amendment, U.S. citizens are protected when state laws deny them their rights under the federal Bill of Rights.

The process where the U.S. Supreme Court interprets state laws according to the protections established in the Bill of Rights is called "selective incorporation"—the court "selects" cases dealing with specific laws that, if found to violate the federal Bill of Rights, are "incorporated" into the Bill of Rights. This holds true even though the Bill of Rights was intended to protect citizens from the federal government and not the state governments.

Below is a table of key cases where state laws have been found to violate the Bill of Rights:

Case	Year	Provision	Amendment
Gitlow v. New York	1925	Freedom of Speech	First
Near v. Minnesota	1931	Freedom of the Press	First
Powell v. Alabama	1932	Right to counsel in capital cases	Sixth
De Jonge v. Oregon	1937	Freedom of assembly; Right to petition	First
Cantwell v. Connecticut	1940	Free exercise of religion	First
Everson v. Board of Education	1947	No establishment of religion	First
In re Oliver	1948	Right to public trial	Sixth
Wolf v. Colorado	1949	Rights against unreasonable search and seizure	Fourth
Mapp v. Ohio	1961	Exclusionary rule	Fourth (and Fifth)
Robinson v. California	1962	Right against cruel and unusual punishment	Eighth
Gideon v. Wainwright	1963	Right to counsel in felony cases	Sixth
Malloy v. Hogan	1964	Right against self-incrimination	Fifth
Pointer v. Texas	1965	Right to confront witnesses	Sixth
Griswold v. Connecticut	1965	Privacy	First, Third, Fourth, Fifth, Sixth, Ninth
Miranda v. Arizona	1966	Protection from self-incrimination	Fifth
Parker v. Gladden	1966	Right to impartial jury	Sixth
In re Gault	1966	Right to due process	Fourteenth
Klopper v. North Carolina	1967	Right to speedy trial	Sixth
Washington v. Texas	1967	Right to compulsory process	Sixth
Duncan v. Louisiana	1968	Right to jury trial in cases involving serious crime	Sixth
Benton v. Maryland	1969	Right against double jeopardy	Fifth
Tinker v. Des Moines	1969	Right to symbolic political expression	First
Argersinger v. Hamlin	1972	Right to counsel in any criminal case with potential sentence of incarceration	Sixth
Hazelwood v. Kuhlmeier	1988	Freedom of the press	First
District of Columbia v. Heller	2007	Gun ownership/gun control	Second

### 3. The Florida Declaration of Rights: Substance, Background and Ratification

The Florida Declaration of Rights was added to Florida's original 1833 Constitution in 1865. The current Declaration of Rights was included in Florida's current constitution, which was ratified in 1968. Since Florida's current constitution was put into place, the Declaration of Rights has been amended several times, most recently in 2004. The Florida Declaration of Rights is Article I, the first section of the current Florida Constitution. Many of the rights enumerated in the Florida Declaration of Rights are the same as, or similar to, the rights enumerated in the U.S. Bill of Rights. Recent additions to the Florida Declaration of Rights include the right to privacy (1998), access to public records and public meetings (2002), a taxpayer's Bill of Rights (1992), fair compensation for medical liability (2004), and marriage defined (2008)\*

\*Note: While it remains in the Florida Constitution, Section 27 of the Florida Declaration of Rights (marriage defined) was nullified in 2015 with the [Obergefell v. Hodges](#) Supreme Court decision under the supremacy clause.

## Lesson Summary

ESSENTIAL QUESTION			
What rights are protected by the Bill of Rights and other amendments to the U.S. Constitution?			
BENCHMARK			
<b>SS.7.CG.2.3</b> Identify and apply the rights contained in the Bill of Rights and other amendments to the U.S. Constitution.			
CIVICS EOC REPORTING CATEGORY			
N/A			
OVERVIEW			
In this lesson, students will understand what is in the Bill of Rights, what rights the Bill of Rights and other amendments protect, and how the Bill of Rights influences both individuals and society.			
BENCHMARK CLARIFICATIONS			
<ul style="list-style-type: none"> <li>Students will recognize that the Bill of Rights comprises the first ten amendments to the U.S. Constitution.</li> <li>Students will recognize the five freedoms protected by the First Amendment.</li> <li>Students will evaluate how the Bill of Rights and other amendments (e.g., 13th, 14th, 15th, 19th, 24th, 26th) influence individual actions and social interactions.</li> <li>Students will use scenarios to identify rights protected by the Bill of Rights.</li> <li>Students will use scenarios to recognize violations of the Bill of Rights or other constitutional amendments.</li> </ul>			
BENCHMARK CONTENT LIMITS			
N/A			
CIVICS CONTENT VOCABULARY			
<ul style="list-style-type: none"> <li>Bill of Rights, cruel and unusual punishment, double jeopardy, due process, eminent domain, equal protection under the law, First Amendment, pleading the fifth, right to bear arms, right to legal counsel, search and seizure, suffrage, trial by jury, unenumerated rights (Ninth Amendment)</li> </ul>			
INSTRUCTIONAL STRATEGIES			
Reading of complex text	Video as text	Directed note taking	Collaborative learning
MATERIALS			
<ul style="list-style-type: none"> <li>Art supplies</li> <li>Rights Anticipation Guide</li> <li>The United States Bill of Rights Guided Notes</li> </ul>			

- First Amendment Video Questions slide
- Why is the First Amendment Important? video (external link)
- Rights Listed in the Amendments reading
- Crack the Code activity sheet
- Bill of Rights Scenarios
- Applying the Bill of Rights activity sheet

### **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"> <li>1. To begin this lesson, pass out copies of the “Rights Anticipation Guide”.</li> <li>2. Instruct students to complete the left column on the “Rights Anticipation Guide” checklist independently.</li> <li>3. Have students share out by taking a poll of which statements students agreed or disagreed with. Designate a side of the room for ‘agree’ and the opposite side of the room for ‘disagree’. Review each statement and have students move, with their Anticipation Guides, to show how they responded. Give students 30 seconds each to discuss why they agreed or disagreed with a partner before moving on to the next item on the Guide.</li> <li>4. Pass out the “The United States Bill of Rights Guided Notes”.</li> <li>5. Explain to students that the Bill of Rights is the first ten amendments, or changes, to the U.S. Constitution.</li> <li>6. Explain to students that as a whole class they will discuss each amendment and write the central idea on the spaces below each amendment.</li> <li>7. Begin with the First Amendment and read the text aloud to the whole class. Explain to students that the First Amendment contains five freedoms.</li> <li>8. Reread the First Amendment and ask students to identify what they think are the five freedoms. Instruct students to add the five freedoms to their activity sheet.</li> <li>9. Read through the rest of the amendments one at a time.</li> <li>10. Call on students to summarize the central idea(s) in each amendment. <i><b>Teacher Note:</b></i> Utilize the answer keys provided to guide your discussion.</li> <li>11. Have students revisit their “Rights Anticipation Guide” and complete the right side of the table, agreeing or disagreeing with the statement.</li> <li>12. Students will complete the bottom box asking if their opinions have changed since the start of the lesson.</li> <li>13. Students will share out their responses with a partner or in a whole group.</li> </ol>

DAY 2	<ol style="list-style-type: none"> <li>1. Project the following “First Amendment Video Questions” slide on the board and have students copy them down, leaving space for answers.</li> <li>2. Explain to students that they will watch a video about the First Amendment. Their task is to take notes on the three questions while watching the video.</li> <li>3. Play the “<a href="#">Why is the First Amendment Important?</a>” video from Constituting America.</li> <li>4. Provide time for students to review their notes and write answers for the video viewing questions in complete sentences. Have students share out.</li> <li>5. Pass out a “Rights Listed in the Amendments” reading and a “Crack the Code” activity sheet to the students.</li> <li>6. Instruct students to work together in pairs or groups to complete the activity using the reading to help. <i><b>Teacher Note:</b></i> This activity is intended to be a quick review from the previous lesson and can be used as a timed activity or a competition.</li> <li>7. Review the correct answers as a class to review the amendments.</li> <li>8. Pass out the “Bill of Rights Scenarios”.</li> <li>9. Read Scenario #1 with the students and work as a whole group to answer the questions.</li> </ol>
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	<ol style="list-style-type: none"> <li>10. Have students work in pairs or small groups on the rest of the scenarios.</li> <li>11. Share out student responses for Scenarios 2-5 and review the amendments that were potentially violated to discuss if the scenario was found unconstitutional.</li> <li>12. Wrap up the lesson by asking students: Why is it important that the U.S. Constitution can be changed or added to?</li> </ol>
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DAY 3	<ol style="list-style-type: none"> <li>1. As a review from the previous lesson, have students take out the “Rights Listed in the Amendments” reading, and select an amendment to draw a picture to represent the rights that are protected by that amendment.  <b>Teacher Note:</b> It is suggested to provide copier paper and art supplies.</li> <li>2. Have students pair up with another student and designate which student is ‘A’ and which is ‘B’. Give student ‘A’ 30 seconds to show their picture to their partner and explain the amendment that they chose. Next, student ‘B’ will share their picture and explain their amendment.</li> <li>3. Repeat this process 2-4 times so that students are exposed to different amendments and picture representations to review.</li> <li>4. Pass out the “Applying the Bill of Rights” activity sheet.</li> <li>5. Read the first scenario together to determine the right that was violated and which amendment protects the people.  <b>Teacher Note:</b> Students can refer back to the “Rights Listed in Amendments” reading to complete the activity.</li> <li>6. Have students work in pairs or small groups to work on the next three scenarios.</li> <li>7. Review students’ answers after allowing them time to answer the questions.</li> <li>8. Checking for Understanding (Formative Assessment):  Instruct students to write a well-crafted response to the following prompt:  <u>Prompt</u>  Your friend complains to you about learning about the Bill of Rights. <i>Who cares about learning about a document that was written hundreds of years ago!</i> she says. Write an argument explaining the importance of learning about the Bill of Rights to your friend. Explain the role the Bill of Rights plays in protecting rights and what can happen when rights are violated. Cite examples from at least three amendments contained in the Bill of Rights.</li> </ol>
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## Civics Content Vocabulary

Word/Term	Definition
<b>Bill of Rights</b>	the first ten amendments of the U.S. Constitution
<b>cruel and unusual punishment</b>	punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed
<b>double jeopardy</b>	the prosecution of a defendant for a criminal offense for which he has already been tried; prohibited in the Fifth Amendment to the U. S. Constitution
<b>due process</b>	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
<b>eminent domain</b>	the right of the government to take private property for public use; the Fifth Amendment requires that people be paid fairly (compensated) for their property if it is taken by the government
<b>equal protection under the law</b>	a guarantee under the 14th Amendment that a state must treat a citizen or class of citizens the same as it treats other citizens or classes in like circumstances
<b>First Amendment</b>	an amendment to the U.S. Constitution prohibiting Congress from establishing a religion, and from interfering with freedom of religious exercise, press, speech, assembly, or petition
<b>pleading the fifth</b>	the right of a person to refuse to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense
<b>right to bear arms</b>	the idea in the Second Amendment that people have an individual right to own and carry weapons
<b>right to legal counsel</b>	the right of a defendant to be assisted by an attorney, and if he cannot afford his own lawyer, the government must appoint one for him; established in the Sixth Amendment
<b>search and seizure</b>	the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect evidence related to the crime; protection from illegal search and seizure is in the Fourth Amendment
<b>suffrage</b>	the right to vote; protected in the 15 <sup>th</sup> , 19 <sup>th</sup> , 24 <sup>th</sup> and 26 <sup>th</sup> Amendments
<b>trial by jury</b>	a trial in which the issue is determined by a judge and a jury, usually with 12 members, whose job is to determine facts and make a judgment of guilty or not guilty; protected in the Sixth Amendment

<b>unenumerated rights</b>	according to the Ninth Amendment, any right that is not specifically addressed in the Constitution still may be protected (e.g., privacy)
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## ADDITIONAL RESOURCES

### [Civics 360 Resources](#)

Florida Department of Education's Civic Literacy Reading List

- *Words We Live By: Your Annotated Guide to the Constitution* by Linda R. Monk

## ANSWER KEYS

Sample Answers: Rights Anticipation Guide

Sample Answers: The United States Bill of Rights Guided Notes

Sample Answers: Crack the Code activity sheet

Sample Answers: Bill of Rights Scenarios

Sample Answers: Applying the Bill of Rights activity sheet

Written Response: Sample Scoring Rubric

## SOURCES

U.S. Constitution from the Constitution Center: <https://constitutioncenter.org/the-constitution/full-text>

Landmark Supreme Court Cases:

[https://www.americanbar.org/groups/public\\_education/programs/constitution\\_day/landmark-cases/](https://www.americanbar.org/groups/public_education/programs/constitution_day/landmark-cases/)

You've Got Rights! from iCivics:

[https://www.icivics.org/teachers/lesson-plans/youve-got-rights?referer=node/674&page\\_title=The%20Constitution](https://www.icivics.org/teachers/lesson-plans/youve-got-rights?referer=node/674&page_title=The%20Constitution)

“Why the First Amendment is Important?” video from Constituting America

<https://www.youtube.com/watch?v=ySISdKauc4>