

SOURCES AND TYPES OF LAW

SS.7.CG.3.10 Identify sources and types of law.

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2023 BENCHMARK UPDATES

- Updated from SS.7.C.3.10
 - Changed from “Identify sources and types (~~civil, criminal, constitutional, military~~) of law.” to “Identify sources and types of law.”
- Depth of Knowledge Changes within Benchmark
 - No changes
- Benchmark Clarification Changes
 - Changed from “Students will ~~use examples of~~ historical law codes to ~~identify how laws originated and developed in Western society.~~” to “Students will explain how historical codes of law influenced the United States.”
 - Changed from “Students will recognize constitutional, statutory, case, and common law as sources of law” to “Students will recognize natural, constitutional, statutory, case and common law as sources of law.”
 - Changed from “Students will compare civil, criminal, constitutional, and/or military law.” to “Students will compare civil, criminal, constitutional, and/or military types of law.”
- Vocabulary Changes
 - Addition of “natural law”

Essential Teacher Content Background Information

[Teacher Content Notes Not Appropriate For Student Use]

This section addresses the following topics:

1. Sources and Types of Law Form the Basis for Public Policy in the U.S.
2. Sources of Law
3. Types of Law

1. Sources and Types of Law Form the Basis for Public Policy in the U.S.

The U.S. is governed by the rule of law. There are several sources and types of law that form the basis for public policy in the U.S. The U.S. government avoids an arbitrary approach to governance in anchoring public policy in multiple sources and types of law. The sources and types of law that anchor policy making reflect core values and approaches including preventing government abuse of power, core civil liberties and civil rights, separation of powers, consent of the governed, and social contract among others.

2. Sources of Law

Sources of law speak to who makes laws. There are sources of law that are made by elected officials at the local, state and national level, and by appointed officials.

The core source of American law is the U.S. Constitution. The Constitution extends specific powers to the three branches and powers of government (legislative, executive, judicial) and divides powers between the national and state governments. From these constitutional orientations emerge the distribution of who is empowered to make law and the nature of the law that is made.

Laws made by elected officials include ordinances (local laws), ordinances (state laws) and acts (federal laws). The supremacy clause found in Article Six of the U.S. Constitution speaks to the notion that the higher levels of government decide how much power lower level governments will have. The Supremacy Clause states that:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The core focus of the Supremacy Clause is that laws made at levels below the national level may not conflict with national laws. Beyond the Supremacy Clause, the notion that higher level governments make laws impacting lower level governments, in essence, deciding what kind of laws that lower level governments may or may not make, is key to understanding sources of law. The national government may decide the powers of the state governments and the state governments may decide which powers that the local governments within those states may have. Laws may be made only for the political units in which they are elected (state laws impact the state in which those legislators are elected; county ordinances impact only the county in which those ordinances are made, etc.).

Yet the U.S. Constitution includes limits on what the national, state and local governments may do. For example, Article I, Section 8 outlines the specific powers of Congress (thereby denying those powers to the states, such as raising and supporting armies) while the Tenth Amendment to the U.S. Constitution states that

powers not specifically delegated to Congress are reserved to the states. Controversies have emerged as to whether the Article I, Section 8 “necessary and proper” (or “elastic”) clause gives powers to Congress that are not enumerated (listed).

Regulations are a source of law that extend lawmaking powers to appointed administrators. Heads of administrative agencies use their expertise to decide how laws will be implemented which broadens their power.

The U.S. Supreme Court is the highest U.S. court. Decisions made by lower courts may be overturned by the U.S. Supreme Court and cannot be appealed. The U.S. Supreme Court is the nation’s final interpreter of the U.S. Constitution. It decides the meaning and scope of constitutional law. Judicial decisions are used as the basis for future judicial decisions; these earlier decisions (precedents) ensure that constitutional interpretation is not arbitrary or capricious.

Since the nation’s founding, the United States also relies on natural law. Natural law is the belief that all humans have certain rights derived from nature rather than rules of society. The most well known reference to natural law was written into the Declaration of Independence stating: *“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”*

3. Types of Law

There are several types of law that are used in the U.S. These types of law include civil, criminal, constitutional, military, and juvenile. Each type of law impacts certain populations and impacts different types of conflicts.

Civil and criminal law are the types of law that most often impact U.S. citizens. Civil laws are those types of laws that involve conflicts between citizens such as property and contract disputes while criminal law focuses on those laws involving individuals accused and/or convicted of committing crimes. Criminal law is handled by the government against which the crime was alleged to have been committed; for instance, a person accused of committing a state statute will be prosecuted by the state while a person convicted of a federal crime will be incarcerated in a federal prison. Persons convicted of violating criminal law may be incarcerated while persons losing their cases in civil court may be subject to fines, financial penalties, and other punishments, but are not subject to incarceration.

Military law impacts only persons in the military; constitutional protections, such as those listed in the Bill of Rights, do not apply to military law although several aspects of constitutional law have parallels in military law.

Juvenile law impacts those who are less than 18 years old. Juvenile law is associated with various aspects of the law where juveniles are treated differently than adults because juveniles do not have the same obligations and responsibilities as do adult citizens. Juveniles also do not have the same powers as adult citizens, which also impacts how they are treated by the legal system

Lesson Summary

ESSENTIAL QUESTION	
What are the sources and types of law?	
BENCHMARK	
SS.7.CG.3.10 Identify sources and types of law.	
CIVICS EOC REPORTING CATEGORY	
N/A	
OVERVIEW	
In this lesson, students will recognize and compare types of law and understand their sources.	
BENCHMARK CLARIFICATIONS	
<ul style="list-style-type: none"> Students will explain how historical codes of law influenced the United States. Students will recognize natural, constitutional, statutory, case and common law as sources of law. Students will compare civil, criminal, constitutional and/or military types of law. 	
BENCHMARK CONTENT LIMITS	
N/A	
CIVICS CONTENT VOCABULARY	
<ul style="list-style-type: none"> case law, civil law, Code of Hammurabi, common law, constitutional law, criminal law, juvenile law, Magna Carta, military law, natural law, necessary and proper clause, precedent, regulation, source, statutory law, type 	
INSTRUCTIONAL STRATEGIES	
Close reading of complex text	Context clues
MATERIALS	
<ul style="list-style-type: none"> Highlighters Map of Mesopotamia image (external link) Historical Codes of Law slides (optional) Sources and Types of Law activity sheet Magna Carta image (external link) Sources of Law reading Types of Law reading Types of Law Scenarios 	
B.E.S.T. STANDARDS	
<ul style="list-style-type: none"> ELA.7.R.2.1- Explain how individual text sections and/or features convey a purpose in texts. 	

- ELA.7.R.3.2- Paraphrase content from grade-level texts.
- ELA.V.1.3- Apply knowledge of context clues, figurative language, word relationships, reference materials, and/or background knowledge to determine the connotative and denotative meaning of words and phrases, appropriate to grade level.
- 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"> 1. To begin this lesson, ask students to brainstorm some of the different laws they know. 2. Allow time for students to brainstorm on scrap paper first and then share out. 3. Write down the laws that are shared on the board. 4. Pose the following questions for discussion: What do you notice about the laws we have on the board? Can you organize them in different categories? Teacher Note: Students can write down their thoughts or categories on the sheet of scrap paper, or cut their scrap paper up to organize. 5. Explain to students that in this lesson, they will learn about different types of laws in the United States and their sources. 6. Project the “Map of Mesopotamia” image from Wikipedia Commons. 7. Explain to students that they will first learn about an ancient system of laws that began in Mesopotamia, land that is now Iraq and Syria and how this historical code of law influenced the U.S. Teacher Note: This “Historical Codes of Law” slides presentation may be used for steps #6 - #16 if you feel students require more visuals than just the auditory information. 8. Pass out the “Sources and Types of Laws” activity sheet and direct student attention to the Code of Hammurabi questions at the top of the first page under ‘Historical Sources’. 9. Read the questions aloud to the class. 10. Use the following key points to provide direct instruction to the class about the Code of Hammurabi. Instruct students to answer the questions on the top of page one of the activity sheet. <ul style="list-style-type: none"> ■ The Code of Hammurabi is a written code of rules that guided the society of Babylon around 1772 B.C. ■ The Code included 282 laws that dealt with everyday life. It was the first time a written set of laws governed a society. ■ This act of writing laws down and creating a structure and process for laws greatly influenced how other societies developed their own laws. ■ This is true for the U.S. and is evident by the U.S. Constitution. The U.S. Constitution is a series of laws written to guide society in the United States. 11. Next, project an image of the “Magna Carta” from the National Archives. 12. Ask students if they can identify the document. 13. Share with students the following key points about another historical code of law, the Magna Carta, and instruct students to take notes in the appropriate box on their activity sheet: <ul style="list-style-type: none"> ■ In order to avoid a war, King John of England signed the Magna Carta in 1215. ■ The Magna Carta is also known as the Great Charter of Freedoms. ■ The Magna Carta was written by a group of English nobility (barons) because they wanted to protect their rights and property against the king. ■ During the American Revolution, the Magna Carta was one inspiration for the colonists to seek their independence from the king of England. ■ The colonists believed they were entitled to the same rights as Englishmen, rights guaranteed in the Magna Carta. The colonists, and later founding fathers, embedded those rights into the laws of their states and later into the U.S. Constitution and Bill of Rights. 14. Direct student attention to the two quotes from the Magna Carta on their activity sheet. 15. Read through both quotes as a whole class and provide students with time to summarize both quotes in their own words.

	<ol style="list-style-type: none"> 16. Lead students to the understanding that both of these quotes are examples of how the Magna Carta inspired the founders of our nation and the writing of the U.S. Constitution. For example, the Fifth Amendment to the Constitution (<i>'no person shall . . . be deprived of life, liberty, or property, without due process of law'</i>) was inspired by the second quote from the Magna Carta. 17. Pose the following question for discussion: The core source of American law is the U.S. Constitution. Based on what you have learned about the Code of Hammurabi and the Magna Carta, how did these documents influence the U.S. Constitution? 18. Provide time for students to write a summary statement on their activity sheet.
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DAY 2	<ol style="list-style-type: none"> 1. To begin today, pass out the “Sources of Law” reading and have students take out their “Sources and Types of Law” activity sheet from yesterday. 2. Lead students to the understanding that this reading will explain different sources of law (beyond historical). 3. Place students into pairs and instruct them to read the ‘Constitutional Law’, ‘Statutory Law’, and ‘Regulations’ sections. While reading, instruct students to mark text that helps them define the concepts of ‘constitutional law’, ‘statutory law’ and ‘regulations’. 4. Provide time for students to read and define the concepts in the appropriate graphic organizer boxes on page two of their “Sources and Types of Law” activity sheet. 5. Review student answers as a whole class. Teacher Note: Instruct students to take notes during the discussion in the ‘Summary Statement’ row on their activity sheet. 6. Next, lead students to the understanding that judicial precedent through court cases becomes sources of law called case law and common law. 7. Have students read the sections of the text titled, ‘Case Law’ and ‘Common Law’, marking text that helps them define the concepts, and then filling in the appropriate sections of the activity sheet. 8. Read the last section titled ‘Natural Law’ as a whole class and fill in the remaining portion of the handout together. 9. Pose the following question for discussion: What can you summarize about sources of law in the U.S.?
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DAY 3	<ol style="list-style-type: none"> 1. Explain to students that the sources of law learned about during the previous days are used to create different types of law: civil, constitutional, criminal, juvenile, and military. 2. Pass out the “Types of Law” reading from iCivics. 3. Have students take back out their “Sources and Types of Law” activity sheet from the previous day. 4. Point out the ‘constitutional law’ rows under Sources of Law and Types of Law on the handout. 5. Explain to students that constitutional law is a source of law and it is also a type of law. 6. Review the definitions together. 7. Read aloud the first paragraph as a whole class. 8. Instruct students to work with their partner to continue reading, mark text, and explain in their own words the following concepts: civil law, criminal law, juvenile law, and military law.
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9. Provide time for students to complete the reading and activity sheet.
10. Monitor student work while they are reading and completing the activity sheet.
11. Review student answers as a whole class.
Teacher Note: Instruct students to take notes during the discussion in the ‘Summary Statement’ row on their activity sheet.
12. When finished, pose the following questions for discussion: How do these different types of law compare? How are they different?
13. Have students share out and provide them with the following key comparisons:
 - Civil and criminal law are the types of law that most often impact U.S. citizens.
 - Juvenile law and criminal law are both concerned with crime, but juvenile law only applies to people under the age of 18.
 - Military law is for military members and does not apply to civilians.
 - Constitutional law deals with issues related to the government and the states and the government and its citizens.
 - Criminal law deals with crime and civil law deals with issues that are not related to crime.
14. Project and/or pass out the “Types of Law Scenarios”.
15. Explain to students that they will look at each scenario and determine the type of law that is being described.
16. Read each scenario aloud to the class and instruct students to identify the type of law being described and the text in the scenario that led them to their answer.
Teacher Note: This can be done whole-class, individually, have students hold up cards (A-E) to identify their answers, have students move to areas of the room, etc.
17. Checking for Understanding (Formative Assessment):
 Instruct students to write a well-crafted informative response using one of the following prompts:
Prompt 1
 Explain the six different sources of law you have learned about in this lesson by explaining each source in your own words and supporting each explanation with evidence from the reading.
Prompt 2
 Explain the different types of law you have learned about in this lesson by explaining each type in your own words, supporting each explanation with evidence from the reading and explaining how each type of law compares with the other types you have learned about.

Civics Content Vocabulary

Word/Term	Definition
case law	law established based on the outcome of former court cases
civil law	law that deals with relationships between people (rather than relationships between people and the government)
Code of Hammurabi	a written code of rules that guided the ancient society of Babylon; dates back to 1772 B.C.
common law	law based on customs and prior legal decisions; used in civil cases
constitutional law	law that focuses on interpreting the U.S. Constitution
criminal law	law that deals with crimes and the punishments for those crimes
juvenile law	law that deals with people who are under the age of 18
Magna Carta	a government document that limited the power of the king of England and protected the rights of the nobility; written by the English nobles in 1215
military law	laws that apply only to people in the military
natural law	laws that are derived from nature rather than from the rules of society
necessary and proper clause	Article 1, Section 8 of the United States Constitution, enables Congress to make the laws required for the exercise of its other powers established by the Constitution (also known as the “elastic clause”).
precedent	to decide something that will be used as an example or rule to be followed in the future
regulation	a rule that a government agency makes to enforce a law
source	a main reference or point of origin
statutory law	laws passed by Congress or a state legislature
type	a particular category, kind, or group

ADDITIONAL RESOURCES

[Civics 360 Resources](#)

Florida Department of Education's Civic Literacy Reading List

- N/A

ANSWER KEYS

Sample Answers: Sources and Types of Law activity sheet

Sample Answers: Types of Law Scenarios

Written Response: Sample Scoring Rubric

SOURCES

Notes on Mesopotamia from National Geographic Education Video:

<https://www.youtube.com/watch?v=xVf5kZA0HtQ>, Accessed April 2013

Mesopotamia Map:

https://upload.wikimedia.org/wikipedia/commons/thumb/2/23/Fertile_Crescent_map.png/976px-Fertile_Crescent_map.png?20100617182834

Iraq and Syria Map:

https://upload.wikimedia.org/wikipedia/commons/7/72/Map_of_Middle_East.png?20121128111049

Magna Carta image and notes: <https://www.archives.gov/exhibits/featured-documents/magna-carta>

Constitutional law notes:

http://teacher.scholastic.com/scholasticnews/indepth/upfront/grolier/constitutional_law.htm, Accessed April 2013

Sources of law reading information, Cornell Law School Legal Information Institute:

<https://www.law.cornell.edu/>

iCivics Reading "Types of Law" <https://www.icivics.org/teachers/lesson-plans/sources-law> Accessed September 2022

Types of Law Scenarios adapted from iCivics:

https://www.icivics.org/teachers/lesson-plans/sources-law?check_logged_in=1