

Chicago-Kent College of Law

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**Constitutional Democracy Project**

*What Does the  
Constitution Say  
About Voting?*

**A Curriculum Designed to Teach About Historical and Present-day  
Controversial Issues Surrounding Voting and Elections**

## **About the Constitutional Democracy Project**

The Constitutional Democracy Project (CDP) offers high-quality, hands-on civics education programs and teaching materials focused on the Constitution, law, and policy for middle school and high school students and their teachers. Many of the CDP's programs were formerly housed at the Constitutional Rights Foundation Chicago (CRFC), which served Illinois schools for 45 years, and the Illinois Center on Civic Education, which closed their doors in 2019 and 2020 respectively. The CDP was formed to continue to provide and to build on these programs and materials. It is housed at Chicago-Kent College of Law, Illinois Institute of Technology. It is non-profit and non-partisan.

[www.constitutionaldemocracyproject.org](http://www.constitutionaldemocracyproject.org)

## **Acknowledgment**

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## **About this Curriculum**

In the Fall of 2020, the Constitutional Democracy Project offered a four-session professional development workshop series about voting and the Constitution. The lessons included in this curriculum arose from those workshops, and were drafted by professional curriculum writer Laurel Singleton. They are designed for use in high school government and civics classes.

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# What Does the Constitution Say about Voting?

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# Introduction

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## What Does the Constitution Say about Voting?

The 2020 election season generated an enormous amount of controversy, litigation, and rhetoric about voting, access to the ballot, and allegations of election fraud. Under “normal” circumstances, today’s political polarization makes voting contested terrain, but the coronavirus pandemic brought heightened attention to questions about when, where, and how people vote. Concerns about access, eligibility, and election integrity are persistent issues that have only become more intense in the pandemic’s shadow.

Since the Founding, the right to vote has expanded significantly through constitutional amendments, legislation, and judicial decisions. But there is no explicit right to vote in the Constitution, and each state has the responsibility and authority to operate both state and federal elections. As a result, laws and practices governing voting vary from state to state.

What does the Constitution say about voting? In the fall of 2020, with support from the Jack Miller Center’s Chicago Founding Civics Initiative, the Constitutional Democracy Project at IIT Chicago-Kent College of Law hosted a series of professional development workshops for high school teachers centered on that question. The four workshops provided an opportunity for teachers to work with and learn from legal scholars and historians to enrich their understanding of both historical and present-day issues and controversies surrounding voting and elections.

The four workshops were:

- ***What Does the Constitution Say About Voting?*** This session featured a panel comprised of Felice Batlan, IIT Chicago-Kent College of Law; Atiba Ellis, Marquette University Law School; Derek T. Muller, University of Iowa College of Law; and Carolyn Shapiro, IIT Chicago-Kent College of Law.
- ***History of the Voting Rights Act.*** This historical session was presented by Christopher Schmidt, IIT Chicago-Kent College of Law.
- ***The Youth Vote.*** This scholar presenting this session was Rebecca de Schweinitz, Brigham Young University.
- ***Post-Election Voting Issues.*** This session featured a discussion among teachers, facilitated by Carolyn Shapiro, IIT Chicago-Kent College of Law.

The lessons in this collection draw on the content from the four professional development workshops, as well as the teacher discussions that took place in those sessions, and teacher feedback provided after the sessions.



## Using the Lessons

These six lessons can be used separately to fill in a gap in the curriculum, but they can also be used together (for example, Lessons 1 and 2 would be good lead-ins to Lesson 3) or pieces can, in many cases, be pulled out to cover a specific aspect of a topic. The lessons are also designed so they can be used in both face-to-face and remote learning situations.

The lessons are:

- ***Lesson 1: What Does the Constitution Say About Voting and Elections?*** This lesson begins with a reading focusing on what the text of the Constitution says about voting—what authority Congress has and what powers related to voting. This introductory reading also covers the Civil War amendments. Small groups then work on case studies of groups who fought for voting rights—African Americans, Native Americans, and women. They present their cases to the class.
- ***Lesson 2: The Voting Rights Act.*** In this lesson, students learn about the provisions of the law and its impact, examining whether they would call the act landmark legislation. Students analyze opinions in the 2013 Supreme Court case regarding the law, *Shelby County v. Holder*, using the unmarked opinions strategy.
- ***Lesson 3: Should Congress Pass a New Voting Rights Act?*** This controversial issues discussion using the Structured Academic Controversy (SAC) model focuses on the question: Should Congress act (use the constitutional authorizations available) to protect the voting rights of marginalized people and standardize the time, place, and manner of elections?
- ***Lesson 4: Young People and the Right to Vote.*** In this lesson, students (1) analyze primary source documents related to the campaign to lower the voting age during the 1960s and 1970s, (2) compare the arguments from the 1960s with those being used by the Vote 16 movement today, and (3) make a poster, brochure, audio, or visual adapting arguments from the 1960s to their position on Vote 16 today (they can be for or against).
- ***Lesson 5: The Electoral College.*** In this lesson, students gather background information about the electoral college and discuss future alternatives (keeping the electoral college, abolishing the electoral college, or reforming the electoral college).
- ***Lesson 6: Lessons Learned from the 2020 Election.*** Students peruse a reading on “lessons learned” from the 2020 election in preparation for a discussion; teachers can choose between two readings from different perspectives or have students read both. Students then discuss the reading(s) using the civil conversation discussion model. The civil conversation is a text-based model designed to deepen understanding.

The lessons are presented in a standard format:

- ***Overview*** introduces the lesson, providing a brief description of the teaching strategies used.
- ***Focus Question*** is the essential question at the heart of the lesson.
- ***Objectives*** identify what students will know and be able to do as a result of participating in the lesson.

- ***Illinois Learning Standards for Social Science, 9-12*** lists Inquiry Skills and Civics Standards addressed in the lesson.
- ***Common Core State Standards*** lists Common Core language arts skills addressed in the lesson.
- **Materials and Preparation** identifies the materials needed to teach the lesson and describes preparation required. All handouts and slides/visuals needed are provided at the end of the lesson.
- ***Time Required*** provides an estimate of how many typical 50-minute class periods teaching the lesson will require, but teachers should recognize that the pace can vary greatly from classroom to classroom.
- ***Procedure*** outlines in detail the steps in teaching the lesson; where necessary, alternate approaches are suggested for remote learning

# Lesson 1: What Does the Constitution Say About Voting and Elections?

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## Overview

This lesson begins with a reading focusing on what the text of the Constitution says about voting—what authority Congress has and what powers related to voting. Small groups work on historical case studies of "problems" related to voting and the "solutions" that were enacted (i.e., amendments and laws). They present their cases to the class. We recommend using this lesson with Lesson 2, which focuses on the Voting Rights Act of 1965.

**Focus Question:** *What does the Constitution say about voting and elections?*

**Objectives:** At the end of this lesson, students will be able to:

- Explain the Constitution’s provisions regarding voting and elections.
- Describe how the Civil War Amendments changed voting rights.
- Analyze the efforts to gain the vote for African Americans, Native Americans, and women following Reconstruction.

## Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civics Standards):

- SS.IS.1.9-12. Address essential questions that reflect an enduring issue in the field.
- SS.IS.7-9-12. Articulate explanations and arguments to a targeted audience in diverse settings.
- SS.CV.1.9-12. Distinguish the rights, roles, powers, and responsibilities of individuals and institutions in the political system.
- SS.CV.2.9-12. Evaluate the opportunities and limitations of participation in elections, voting, and the electoral process.
- SS.CV.8.9-12. Analyze how individuals use and challenge laws to address a variety of public issues.

## Common Core State Standards

This unit addresses the following Common Core State Standards:

CCSS.ELA-LITERACY.RH.9-10.2. Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.

CCSS.ELA-LITERACY.WHST.9-10.2. Write informative/explanatory texts, including the narration of historical events, scientific procedures/experiments, or technical processes.

CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

CCSS.ELA-LITERACY.SL.9-10.4. Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

## Materials and Preparation

- Make copies of the following handouts in the numbers suggested or make them available electronically so students can access them online for discussion in breakout rooms:  
Handout 1-1: *Early Scenes in the Story of the Constitution, Voting, and Elections* – enough for the entire class  
Handout 1-2: *African Americans and the Vote* – enough for one-third of the class  
Handout 1-3: *Native Americans and the Vote* – enough for one-third of the class  
Handout 1-4: *Women and the Vote* – enough for one-third of the class
- If you are teaching the lesson remotely, you will need to plan small groups and prepare breakout rooms in advance. For the jigsaw and the presentation activities, you will need three or six groups depending on the size of your class; the same groups can be used for both activities.

**Time Required:** 3 class periods

## Procedure

### ***Part 1: Learning about Voting and Elections from the Founding through Reconstruction***

1. Introduce the lesson's focus question: What does the Constitution say about voting and elections? Tell students that one expert on this question, Professor Derek Muller of the University of Iowa College of Law, says that the answer to this question is not a photograph, but a film. Ask: What do you think he means by this? (*The answer changes and develops over time, it's not fixed.*) How might such change happen? (*If students do not have ideas about this question, you may share that statutes, amendments, and court decisions are three ways that change occurred.*) How will thinking of the answer to our focus question as a film rather than a photograph affect our search for an answer? (*It will make the search more complicated and require us to look at voting, elections, and the Constitution over time.*)
2. Explain that the class is going to gather some basic information about early "scenes" in the film about the Constitution, voting, and elections. Make Handout 1-1: *Early Scenes in the Story of the Constitution, Voting, and Elections* available in hard copy or digitally. The handout could be read as a class, individually, or as a modified jigsaw activity, with three (or six—two groups per section) groups reading the different sections and sharing what they read with the class.
3. However you have students do the reading, follow up with a class discussion using such questions as the following:

- How was having different methods of choosing members of the House, Senators, and the President and Vice President a compromise between monarchy and direct voting by the people (democracy)?
- Why do you think the nation adopted direct election of Senators in the Seventeenth Amendment? Is the method of choosing all the leaders in the federal government now consistent? Why do you think that might be?
- Who was given the greatest power for deciding who could vote? What is one reason this was a good idea? One reason it was a bad idea?
- Who was given the greatest power for deciding when and how elections would take place? Where was Congress given the power to change when and how elections take place?
- What happened after the Civil War to change who could vote? Based on the reading, do you think those changes were permanent? Make a prediction about the right to vote after Reconstruction ended—do you think it expanded, contracted, or maybe both?

### ***Part 2: Presentations on Fights to Gain the Vote from Reconstruction to 1965***

1. Ask students if they have seen a movie in which there are multiple stories happening at the same time, but the stories are somehow related. Explain that in the second part of this lesson, they will be looking at three separate stories about voting rights from the end of Reconstruction to the 1960s. One is the story of voting rights and African Americans, the second is the story of women’s voting rights, and the final story is about Native American voting rights.
2. Organize students into three or six groups (depending on the size of the class) and assign one or two groups to each of the stories, providing access to Handout 1-2, 1-3, or 1-4. Students are to read and discuss their material and prepare a presentation on their story. If you are teaching face to face, you may want to have students present their stories through skits/dramatizations. If you are teaching remotely, a presentation such as a narrated slide deck/timeline or dramatic choral reading may be a better option. If time allows, you may want to have students do some additional research on their assigned story.
3. Allow time for students to prepare and make their presentations. Then conduct a concluding discussion using such questions as the following:
  - Why do you think people fought so hard to get the right to vote? Why do you think they ***had*** to fight so hard? *(Be sure students understand that people recognize voting as a way to exercise one’s power, to have a voice, in our system. Some of those who have power want to have a monopoly on power and thus don’t want to let others have that same power.)*

- What, if anything, surprised you about these three fights for the right to vote? (*Accept all answers.*)
  - Which group or groups still faced major challenges by the mid-1960s? What do you think happened to assure voting rights for these group(s)?
4. Tell students that, in the next lesson, they will be looking at a major piece of legislation that addressed barriers to voting in the mid-1960s.

### **Extension**

1. Many African Americans, especially African American women, worked for both women's suffrage and votes for African Americans. Encourage students to research some of these women and create an analog or digital Voting Rights Hall of Fame that can be added to as they continue their study of voting. A starter list of people who could be researched includes Frederick Douglass, Ida B. Wells, Mary Church Terrell, Ella Baker, Fannie Lou Hamer, Frances Ellen Watkins Harper, Anna Julia Coope, Mary Ann Shadd Carey, and Nannie Helen Burroughs.
2. While this lesson has covered three groups, other groups also faced discrimination in gaining voting rights. Students might research and present information on when Asian Americans gained the right to vote.
3. This lesson makes clear that people have made huge sacrifices and worked tirelessly while facing great dangers in order to gain the right to vote. Encourage students to investigate why people were willing to do that by collecting quotes about the importance of voting. Numerous such collections can be accessed online, but students should also collect quotes from people they know. If possible, connect students with voting rights advocates or elected officials who can share their views on the power of the vote.

## **Handout: Early Scenes in the Story of the Constitution, Voting, and Elections**

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### **Scene 1: The Constitution as Written**

The men who gathered in 1787 to write the Constitution were, according to Professor Derek Muller, University of Iowa Law School, obsessed with elections—how the government would be formed. There were many debates about whether there should be direct election—that is, whether the people should choose their own leaders. The Framers were concerned that people would not be well enough informed to make good decisions. At the same time, they did not want the government to resemble the British monarchy.

The Constitution ended up establishing different methods of choosing members of the House of Representatives, Senators, and the President and Vice President. Members of the House would be chosen directly by the people. Senators would be appointed by state legislators. (The Seventeenth Amendment provided for direct election of Senators.) The President and Vice President would be chosen by electors from each state. The state legislature in each state could decide how their electors would be chosen. Each state would have the number of electors equal to the number of their Representatives and Senators combined.

With so much debate about how government leaders would be chosen, you might think the Framers would also provide a lot of detail about who could vote and the time, place, and manner when elections would occur. Not so! These matters were mostly left to the states.

Article 1, Section 2 says that voters for the House of Representatives shall have the same qualifications the states set for voters participating in choosing “the most numerous Branch of the State Legislature.”

Article 1, Section 4 says “The Times, Places and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the congress may at any time by law make or alter such Regulations, except as to the Places of chusing Senators.” The last part of that section provides an “out” for Congress if the states are not doing a good job.

Some other provisions in the Constitution also affected voting and elections. The three-fifths clause provided that each enslaved person be counted as three-fifths of a person for purposes of determining representation in the House. Professor Atiba Ellis, Marquette University Law School, has called this clause the first form of gerrymandering because it gave states where slave-holding was allowed more power in the House of Representatives. Gerrymandering describes efforts to manipulate the boundaries of voting districts to favor a particular group.

Finally, Article 4, Section 4 guarantees every state a republican form of government. As Professor Carolyn Shapiro of IIT Chicago-Kent College of Law points out, the exact meaning of “representative form of government” has never been specified. The assumption is that it includes, to at least some degree, the people’s ability to choose their leaders.

## **Scene 2: In the States**

It is often said that federalism makes states the laboratories of democracy. It allows states to try out ideas on a relatively small scale. If the ideas work, other states or the federal government may adopt those ideas.

Sometimes, the experiments the states undertake are good for democracy. Sometimes they aren’t.

At the time the Constitution was ratified, most states gave voting rights to property-owning white men 21 and older. That excluded the vast majority of Americans from voting.

In 1791, Vermont became the first state added to the union. It allowed all men over 21 to vote, regardless of race or property. As more new states were added, they also did away with property requirements—although most did not allow black men to vote. The original states began to eliminate property requirements too.

The right to vote was slowly expanding—but the expansion was limited. Most women could not vote; nor could most black men, even free black men. Until 1828, there were religious restrictions on voting in some states.

## **Scene 3: The Civil War Amendments**

The Thirteenth, Fourteenth, and Fifteenth Amendments are called the Civil War Amendments because they were passed during or shortly after the Civil War. The Thirteenth Amendment abolished slavery.

The Fourteenth Amendment was complicated. Two provisions are especially important with respect to voting and elections:

- Section 1 says that “all persons born or naturalized in the United States . . . are citizens of the United States and of the State wherein they reside.” It provided all persons with due process protections and “equal protection under the laws,” extending the provisions of the Bill of Rights to the states.
- Section 2 did away with the three-fifths clause. It allowed the government to punish states that abridged the right to vote for male citizens 21 and older by proportionally reducing their representation in Congress. According to Professor Atiba Ellis, this provision provides the basis for punishing convicted felons by taking the vote away from them.



The Fifteenth Amendment guaranteed the right to vote regardless of race, color, or “previous condition of servitude.” Thus, it gave black men—whether they had previously been enslaved or not—the right to vote. And African American men were very involved in politics during Reconstruction. Reconstruction was the period after the Civil War (1865-1877) when the federal government worked to ensure that African Americans would have a political voice in the South.

Then Reconstruction ended and matters were once again left to the states. What Felice Batlan, IIT Chicago-Kent College of Law, has said about the fragility of voting rights was soon proven: There is not a moment in time in which voting rights are not subject to being taken away in a variety of ways. Letting the states act as laboratories ended up meaning, as Professor Ellis has said, states could discriminate.

## Handout 1-2: African Americans and the Vote

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In 1865, Frederick Douglass, a leading abolitionist and former slave, made a passionate speech advocating voting rights for African Americans. In this speech, he said:

I am for the “immediate, unconditional, and universal” enfranchisement of the black man, in every state in the Union. Without this, his liberty is a mockery; without this, you might as well almost retain the old name of slavery for his condition; for, in fact, if he is not the slave of the individual master, he is the slave of society, and holds his liberty as a privilege, not as a right.

In the aftermath of the Civil War, the Fourteenth (ratified in 1868) and Fifteenth (ratified in 1870) Amendments seemed to answer Douglass’s call. And, in the Reconstruction era, many African American men were able to vote.

However, when Reconstruction ended, states began taking action to make it difficult if not impossible for African Americans to vote. This included intimidation and violence as well as laws aimed at preventing African Americans from voting. These laws included requiring voters to pass a literacy test, which was made more difficult for black voters than white voters, or charging a tax to vote. This tax was called a poll tax. The Supreme Court upheld both literacy tests and poll taxes as constitutional.

The National Association for the Advancement of Colored People was formed in 1909. Its goal was to gain civil rights, including the right to vote, for African Americans. The organization and others concerned with voting rights had some successes in legislatures and in the courts.

With the rise of the Civil Rights Movement in the 1950s and 1960s, voting rights became a major issue. Thousands of people traveled into Southern towns to conduct voter registration drives. Marches were held to draw attention to the issue. In 1962, Congress passed the Twenty-fourth Amendment banning poll taxes. The states ratified the amendment early in 1964, a major step. Also in 1964, Congress passed the Civil Rights Act of 1964, banning discrimination in voting on the basis of race.

Even then, Southern states resisted change. Civil rights groups such as the Southern Christian



SNCC leader John Lewis being beaten by state troopers during the 1965 Selma to Montgomery voting rights march. Lewis would go on to be a long-serving member of the U.S. House of Representatives. Courtesy National Archives.

Leadership Council (SCLC) and the Student Nonviolent Coordinating Committee (SNCC) stepped up to register black voters. In early 1965, Dr. Martin Luther King, Jr. and the SCLC decided to make Selma, Alabama, the focus of a major voter registration drive.

Selma was located in Dallas County, where the sheriff had led the opposition to registering black voters. As a result, only 2 percent of Selma's eligible black voters (about 300 out of 15,000) had been able to register to vote. To address that problem and protest the killing of a young demonstrator, Jimmie Lee Jackson, by an Alabama state trooper, a massive protest march was planned. The 600 marchers planned to walk 54 miles from Selma to the state capitol in Montgomery on March 7, 1965.

The marchers didn't get far. They were attacked by Alabama state troopers on the Edmund Pettis Bridge. Marchers were beaten with whips and nightsticks. They were sprayed with tear gas. Ultimately, they were forced back to Selma.

The violence was shown on television, and the event became known as "Bloody Sunday." Many Americans were outraged. Thousands were motivated to come to Selma to protest.

President Lyndon B. Johnson went on television on March 15 to express support for the protesters in Selma. He announced he would be sending a new voting rights bill to Congress. And he used the language of the Civil Rights Movement, saying "We shall overcome."

On March 21, 2,000 people set out from Selma. They were protected by U.S. Army and National Guard troops. They arrived in Montgomery on March 25, where they were met by nearly 50,000 supporters. Dr. King gave a speech in which he said, "Let us march on ballot boxes until brotherhood becomes more than a meaningless word in an opening prayer, but the order of the day on every legislative agenda."

The Voting Rights Act was signed into law on August 6, 1965. It had a huge impact on voting rights of African Americans.

To learn more, visit the Civil Rights Trail (<https://civilrightstrail.com/experience/marching-for-the-right-to-vote/>) or the Library of Congress (<https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-african-americans>).

## Handout 1-3: Native Americans and the Vote

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It's often overlooked that self-government in America was practiced by Native Americans long before the formation of the U.S. government. And yet, Native Americans faced centuries of struggle before acquiring full U.S. citizenship and legal protection of their voting rights.

In the early 1800s, the United States began taking the homelands of numerous tribes, sometimes offering citizenship for Native Americans in exchange for their land--but citizenship did not confer voting rights. The Supreme Court ruled that the 14th and 15th Amendments did not apply to Native Americans. Thus, those Amendments did not help indigenous people gain the right to vote.

Many government officials felt that Native Americans should be assimilated into America's mainstream culture before they became enfranchised. Congress passed the Dawes Act of 1887 to help spur assimilation. It provided for the dissolution of Native American tribes as legal entities and the distribution of tribal lands among individual members (capped at 160 acres per head of family, 80 acres per adult single person). Remaining lands were declared "surplus" and offered to non-Indian homesteaders. The Act established Indian schools where Native American children were instructed in not only reading and writing, but also the social and domestic customs of white America. Practicing their tribal traditions and customs and speaking their native language were forbidden.

The Dawes Act had a disastrous effect on many tribes, destroying traditional culture and society as well as causing the loss of as much as two-thirds of tribal land. Problems with the Dawes Act led to change in U.S. policy toward the legal status of Native American tribes. The drive to assimilate continued in the boarding schools young Native Americans were forced to attend. But the government adopted a policy of allowing Native Americans to choose self-government.

The Snyder Act of 1924 admitted Native Americans born in the U.S. to full U.S. citizenship.

Even with the passing of this citizenship bill, Native Americans were still prevented from participating in elections because the Constitution left it up to the states to decide who has the right to vote.



"Move on!" Has the Native American no rights that the naturalized American is bound to respect? Cartoon by Thomas Nast. Published April 22, 1871. *Courtesy of Library of Congress.*

Maine had granted tax-paying Native Americans the right to vote in its original 1819 state constitution. But in the late 1930s, as reported by Henry Mitchell, a resident of that state, Native Americans were prevented from voting:

*...[T]he Indians aren't allowed to have a voice in state affairs because they aren't voters. .... Just why the Indians shouldn't vote is something I can't understand. One of the Indians went over to Old Town once to see some official in the city hall about voting. I don't know just what position that official had over there, but he said to the Indian, 'We don't want you people over here. You have your own elections over on the island, and if you want to vote, go over there.'*

After the passage of the 1924 citizenship bill, it still took over 40 years for all fifty states to allow Native Americans to vote. Native Americans had to fight for voting rights on a state-by-state basis. Eventually, all the states allowed Native Americans to vote. Utah was the last state to grant Native Americans the right to vote in 1962.

Even with the lawful right to vote in every state, Native Americans suffered from the same mechanisms and strategies, such as poll taxes, literacy tests, fraud and intimidation, that kept African Americans from exercising that right. States did not put polling places where Native Americans lived.

For more information, visit the History Channel (<https://www.history.com/news/native-american-voting-rights-citizenship>) or the National Archives (<https://text-message.blogs.archives.gov/2019/11/12/the-war-after-the-war-the-american-indian-fight-for-the-vote-after-wwii/>).

**Source:** Adapted from “Voting Rights for Native Americans,” Library of Congress, <https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-native-americans/>.

## Handout 1-4: Women and the Vote

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Some people say the fight for women's suffrage began when Abigail Adams wrote the following in a letter to her husband in March 1776:

... in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If perticular care and attention is not paid to the Laidies we are determined to foment a Rebellion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.

The Framers did not respond favorably, and it was not until 1848 that the first women's rights convention was held. That convention, held in Seneca Falls, New York, included the right to vote in its list of resolutions. The idea was controversial, however, as some people at the convention argued that it should be removed.

After the Civil War, several organizations devoted to suffrage were formed. In 1869, women were given the vote in the new territory of Wyoming; when Wyoming became a state in 1890, it became the first state in which women could vote.

Meanwhile, women were going to court. For example, in 1872, a woman named Virginia Minor tried to vote in St. Louis. She was turned away. She sued, claiming that the 14th Amendment's "privileges and immunities" clause gave women the right to vote. In 1875, she lost her case in the U.S. Supreme Court. Susan B. Anthony was charged and convicted of a crime for voting in the election of 1872.

The first constitutional amendment giving women the right to vote was introduced in the U.S. Congress in 1878. It was unsuccessful. The advocates for women's suffrage focused mostly on changing state and local law. They achieved some successes. Their greatest victory came in 1917, when New York gave women the right to vote. While most of the Western states allowed women to vote, only New York and Michigan east of the Mississippi gave women full suffrage.

The rest of the country was a patchwork. Some states did not allow women to vote under any circumstances. Some allowed women to vote in



Protest in Chicago (1916). *Courtesy Library of Congress Manuscript Division.*



primaries. In some states, women could vote only in selected cities. Other states allowed women to vote in primaries or presidential elections—but not other elections.

In 1913, two young activists, Alice Paul and Lucy Burns, organized the Congressional Union. Their goal was to get a constitutional amendment passed to gain the vote for women all over the United States. They borrowed strategies from British women's groups. They organized parades, lobbied members of Congress, and picketed the White House. Women who took part in protests were sometimes attacked by members of watching crowds. Some were arrested and spent time in jail. Imprisoned activists who went on hunger strikes were force fed.

The public had sympathy for the women, and President Woodrow Wilson felt compelled to endorse the women's suffrage amendment in 1918. Congress passed the amendment in 1919, and the states ratified the Nineteenth Amendment in 1920.

But the fight did not end there. Women of color still could not vote in many parts of the United States. And sometimes laws that seemed to have another purpose took women's right to vote. In 1907, the United States passed a law taking away citizenship from American women who married men who weren't U.S. citizens. The theory at the time was that women were loyal to their husbands rather than their country. The law stayed in place until 1922, when the government stopped stripping women of citizenship because of their marriage. However, it didn't restore the citizenship of those who had lost it between 1907 and 1922.

How did this relate to voting? Women whose citizenship was taken away could not vote. Often they did not know they had lost their citizenship until they got to the polls and a poll judge told them they could not vote. To regain their voting rights, they had to go through naturalization! And women who were not white or descended from Africans were not eligible for naturalization, meaning that Asian women and many women of Middle Eastern descent could not become citizens through this process.

To learn more, you can find information and primary sources—including photos, cartoons, and more—at the Library of Congress (<https://www.loc.gov/classroom-materials/womens-suffrage/>) and the National Archives (<https://www.archives.gov/education/lessons/woman-suffrage>).

## Lesson 2: The Voting Rights Act

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### Overview

In this historical lesson, students learn about the provisions of the 1965 Voting Rights Act, its effects, and the most important recent Supreme Court case about it. Students analyze the *Shelby County v. Holder* case, using the unmarked opinions strategy. We recommend using this lesson after Lesson 1, which provides important background, and before Lesson 3, which engages students in considering whether Congress should enact a new Voting Rights Act, particularly given the controversies over voting and alleged voting fraud and voter suppression in 2020.

**Focus Question:** *What did the Voting Rights Act achieve and how has the Supreme Court ruled on its constitutionality?*

**Objectives:** At the end of this lesson, students will be able to:

- Explain the major provisions of the 1965 Voting Rights Act.
- Evaluate the effects of the Voting Rights act to determine if it was an example of landmark legislation.
- Analyze arguments and opinions in the Supreme Court case *Shelby County v. Holder*.

### Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civic Standards):

- SS.IS.1.9-12. Address essential questions that reflect an enduring issue in the field.
- SS.IS.7.9-12. Articulate explanations and arguments to a targeted audience in diverse settings.
- SS.CV.1.9-12. Distinguish the rights, roles, powers, and responsibilities of individuals and institutions in the political system.
- SS.CV.2.9-12. Evaluate the opportunities and limitations of participation in elections, voting, and the electoral process.
- SS.CV.4.9-12. Explain how the U.S. Constitution established a system of government that has powers, responsibilities, and limits that have changed over time and are still contested while promoting the common good and protecting rights.
- SS.CV.9.9-12. Evaluate public policies in terms of intended and unintended outcome and related consequences.

### Common Core Standards

This unit addresses the following Common Core State Standards:



- CCSS.ELA-LITERACY.RH.9-10.1. Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.
- CCSS.ELA-LITERACY.RH.9-10.2. Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.
- CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

## Materials and Preparation

- Make copies of the following handouts for all students or make them available electronically so students can access them online for discussion in breakout rooms:
  - Handout 2-1: *The Voting Rights Act of 1965*
  - Handout 2-2: *Deciding Shelby County v. Holder*
- If you are teaching the lesson remotely, you will need to plan the breakout rooms for Part 2 of the lesson. Depending on your class, you may want to have each group be “Supreme Court-sized” (9 members); however, smaller but (preferably) odd-numbered groups could also work.

**Time Required:** 2 class periods

## Procedure

### *Part 1: Introducing the 1965 Voting Rights Act*

1. If you used Lesson 1, review with students what they learned about the barriers to voting by African Americans, “Bloody Sunday,” and President Johnson’s announced commitment to a Voting Rights Act in 1965. If you did not use Lesson 1, provide a mini-lecture to provide context or have students familiarize themselves with background using a website such as <https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-african-americans>.
2. Provide access to Handout 2-1: *The Voting Rights Act of 1965*. Because the content of the handout (and the law) is complex, it may be advisable to read the handout as a group, answering questions and clarifying as you go. However you have students engage with the handout, conduct a class discussion of the questions provided on the handout.
  - What are the major provisions of the Voting Rights Act? Which provisions applied nationally and which applied only to those jurisdictions where there was evidence of serious discrimination?
  - Do you think it was fair to place tougher restrictions on some areas than on others? Explain your answer.

- A law may be considered landmark legislation if it marks a turning point or a new stage in history. Would you call the Voting Rights Act of 1965 a piece of landmark legislation? Why or why not?

### ***Part 2: Analyzing Shelby County v. Holder***

1. Tell students: Although the VRA passed with bipartisan support, there were people who were opposed for a variety of reasons. One of the ways they tried to resist the law was to file lawsuits challenging the Voting Rights Act. In the next part of the lesson, students are going to have a chance to “decide” an important recent case challenging the Voting Rights Act.
2. Explain that students will be working in “courts” to decide a 2013 case challenging the VRA. Provide access to Handout 2-1: ***Deciding Shelby County v. Holder*** and go over the directions with students. Working in groups, students will:
  - Read the background on the case.
  - Read the arguments made in the case and decide which you believe are the strongest arguments.
  - Decide which of two opinions written by Supreme Court justices in the case should be the decision in the case.

Tell students you will be checking in with them after they have read and discussed the arguments; tell them how much time they will have before you ask them to come back together to talk about the arguments.

3. Allow students time to work in their groups to read and discuss the arguments. Check in with the class after the allotted time has passed, asking for volunteers to share what they found to be the most persuasive arguments on both sides of the case. Let students know how long they will have to read the two excerpts and decide on their court’s decision.
4. Bring the class back together and poll the groups to find out what they decided in the case and why. Share that Opinion A was written by Chief Justice Roberts and was the decision of the Court. The Court struck down, not Section 5, but the “coverage formula” in Section 4. Thus, no jurisdictions remained under the coverage of the VRA. Opinion B was a dissenting opinion written by Justice Ginsberg. Ask:
  - What do you think Chief Justice Roberts meant in saying “The Amendment is not designed to punish for the past; its purpose is to ensure a better future”? Do you agree that the Voting Rights Act punished states for past actions?
  - Why do you think Justice Ginsburg talks about Congress so much? Do you agree with her that the Court made an egregious error in its ruling? Why or why not?
5. Explain that previously covered jurisdictions have made many changes to voting laws since *Shelby County* was decided. Voting rights advocates argue that this is proof that a new law is needed, but opponents say such a law is a bad idea. Students will have a chance to consider these arguments in the next lesson.

### **Extension**

1. The *Oyez* website provides audio of the arguments in the *Shelby County* case, as well as Chief Justice Roberts and Justice Ginsburg presenting their opinions from the bench (<https://www.oyez.org/cases/2012/12-96>). Interested students could listen to these

recordings and report to the class on how their understanding of the case was deepened or changed as a result.

2. These lessons cannot deal with every election issue or every court case dealing with election-related topics. Students might investigate how other cases were decided in the courts and the effect on elections; for example, campaign finance cases, particularly *Citizens United v. FEC* or gerrymandering cases (a good list is available at <https://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-most-significant-cases.aspx>) could be studied. Students might also consider some of the claims made in court cases following the 2020 election (<https://www.scotusblog.com/election-litigation/>).

## Handout 2-1: Voting Rights Act of 1965

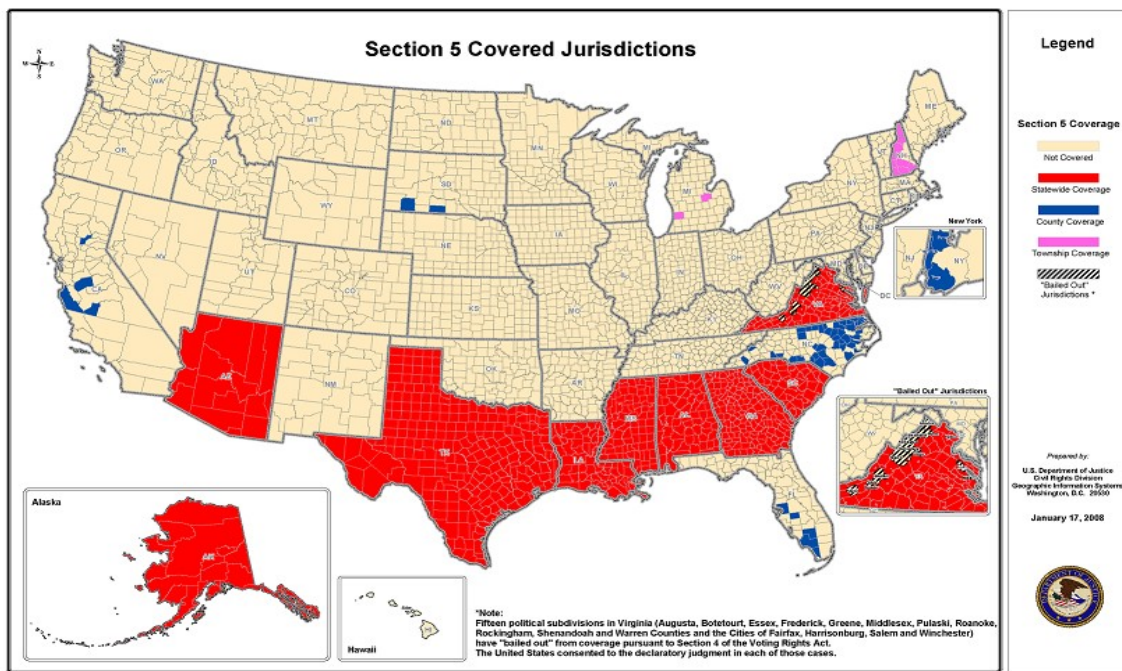
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### Summary:

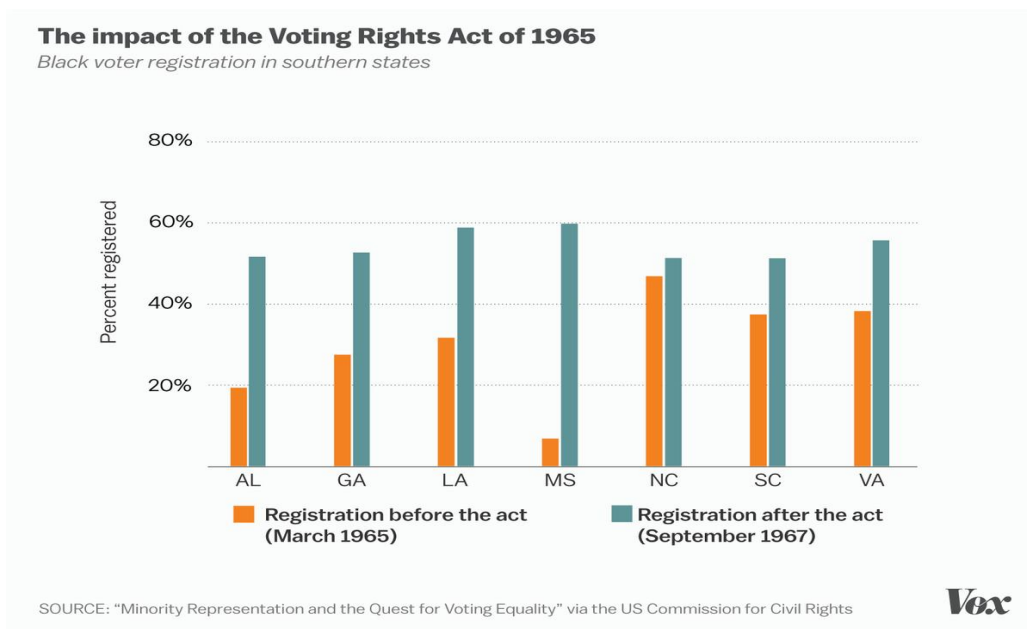
The Voting Rights Act was passed into law in 1965. The act had support from both parties, passing 79-18 in the Senate, and 328-74 in the House. The act was signed into law on August 6, 1965.

The Act was extremely complex. Some provisions applied to the entire nation. Others applied only to parts of the country that had engaged in serious discrimination when the law was passed. Below is a summary of some important sections of the law:

- The law began with these words: “An ACT to enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.” Here, Congress is saying it has the authority to pass this law because the Fifteenth Amendment gave it that power. The experience of the past nearly 100 years had shown that action was needed.
- Section 2 expressly made it illegal for states and local governments to have voting practices that discriminated on the basis of race. Other sections of the statute outlawed literacy tests and poll taxes, which were devices that had been used to disenfranchise minority voters. These sections applied nationwide.
- Section 4 established what was called a “coverage formula.” If a state, county, or town fit into this formula, it would be subject to federal oversight. Basically, if the jurisdiction had literacy tests in place in the five years before the law passed and, in November 1964, less than 50% of voting age residents were registered or voted, it was “covered.” The coverage formula was revised in the 1970s. In 2006, Congress considered changing the formula but decided not to do so. This map on the next page shows the covered jurisdictions as of 2008. Section 4 also provided that voting materials be provided in voters’ native language if there was a significant number of people who spoke a particular language and were unable to read English.
- Section 5 required that jurisdictions that fell under the coverage formula from Section 4 had to request permission from the Justice Department or from a special court in Washington, D.C. before they could change their voting laws or practices. This process was known as “preclearance.” The purpose of preclearance was to ensure that changes in the law did not result in discrimination. A method for removing a jurisdiction from coverage was also provided. This method was known as “bailing out.” The map on the next page shows jurisdictions that had “bailed out.”



The Voting Rights Act (VRA) had an immediate impact. When the law was passed, in the jurisdictions covered by the law, fewer than 30 percent of African Americans were registered to vote. By the end of 1965, 250,000 new black voters had been registered, many by federal officials working in the states. The chart below shows the increase in black voter registration in seven southern states two years after the law was enacted. More African Americans were also elected to office.



**Discussion Questions:**

- What are the major provisions of the Voting Rights Act? Which provisions applied nationally and which applied only to those jurisdictions where there was evidence of serious discrimination?
- Do you think it was fair to place tougher restrictions on some areas than on others? Explain your answer.
- A law may be considered landmark legislation if it marks a turning point or a new stage in history. Would you call the Voting Rights Act of 1965 a piece of landmark legislation? Why or why not?

## Handout 2-2: Deciding *Shelby County v. Holder*

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Your “court” will be deciding a landmark case on the Voting Rights Act. In the case, *Shelby County, Alabama*, sued the federal government. *Shelby County* had been a covered jurisdiction since 1965. The county’s lawsuit claimed that Section 5 of the VRA was unconstitutional because Congress overstepped its authority when it reauthorized the VRA in 2006.

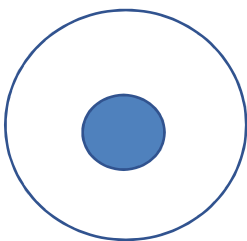
Working in a group, your job will be to:

- Read the background on the case, *Shelby County v. Holder* (Eric Holder was the U.S. Attorney General).
- Read the arguments made in the case and decide which you believe are the strongest arguments.
- Decide which of two opinions written by Supreme Court justices in the case should be the decision in the case.

### Background

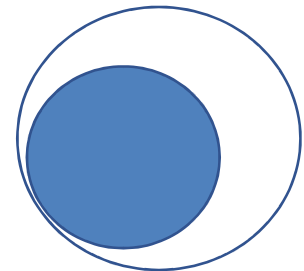
After the Voting Rights Act was passed, opponents almost immediately sued the federal government to try to overturn the law. In the case of *South Carolina v. Katzenbach* (1966), the Supreme Court upheld the law, including Section 5’s preclearance requirement, in an 8-1 decision. Chief Justice Earl Warren, writing for the court, said “Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits.”

The Court said that the law was extraordinary—but the wrong it was addressing was also extraordinary. Professor Christopher Schmidt of IIT-Chicago Kent College of Law uses this drawing to explain the Court’s thinking when it comes to congressional efforts to address violations of people’s rights under the Fifteenth Amendments.



Problematic

If the problem (blue circle) is small but the solution is extraordinary (white circle), the Court may find the law unconstitutional. However, an extraordinary problem, like discrimination in voting, makes an extraordinary solution permissible.



Permissible

## Arguments

### *For Shelby County:*

- Congress overstepped its power in renewing the Voting Rights Act in 2006. The Fifteenth Amendment gave Congress the right to enforce the right to vote that the Amendment protects. However, conditions had changed greatly since 1966, when the Court said the VRA was a proportional solution for the problem of discrimination in voting. In 2006, the problem was no longer so large. Thus, the states—which the Constitution gave the power to regulate elections—should be allowed to make decisions without federal intervention. State control of elections is an important feature of the Constitution and is designed to prevent too much power from being concentrated in the federal government. The division of responsibility and power between states and the federal government is known as “federalism.”
- Requiring only some states, counties, and towns to get preclearance when they change some aspect of their voting laws is an unfair burden. Some covered states currently have a larger percentage of minorities registered to vote and voting than uncovered states. Thus, Section 5 of the VRA is regulating jurisdictions that are not discriminating, while jurisdictions that do have problems are not regulated. Either all jurisdictions should be covered or none should be, or a more precise and up-to-date coverage formula should have been enacted.
- While jurisdictions can “bail out” of coverage, the requirements to do so are too demanding. Basically, a state has to show it was perfect for 10 years to bail out of coverage. This is too difficult, given that the covered states have made so much progress since 1965.

### *For the U.S. Government:*

- The Fifteenth Amendment gave Congress the power to enforce the right to vote that the Amendment protects. Its authority to do so was upheld in the case of *South Carolina v. Katzenbach*. In 2006 when Congress reauthorized the Act, it considered thousands of data and determined the law’s provisions were still needed.
- The states covered by Section 5 face more voting discrimination lawsuits than all the rest of the nation put together. While they have done away with the barriers to voting that were a problem in 1965, they now use other methods. Thus, the burden of federal regulation is justified.
- Section 5 includes an option for jurisdictions to bail out if they have truly eliminated discrimination. It also includes a method for “bailing in”—including new jurisdictions that are discriminating. Thus, the Voting Rights Act treats all states fairly.



## Two Opinions

### *Opinion A*

The Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem. Section 5 of the Act required States to obtain federal permission before enacting any law related to voting—a drastic departure from basic principles of federalism. And §4 of the Act applied that requirement only to some States—an equally dramatic departure from the principle that all States enjoy equal sovereignty. This was strong medicine, but Congress determined it was needed to address entrenched racial discrimination in voting, “an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution.” . . .

But history did not end in 1965. By the time the Act was reauthorized in 2006, there had been 40 more years of it. In assessing the “current need” for a preclearance system that treats States differently from one another today, that history cannot be ignored. During that time, largely because of the Voting Rights Act, voting tests were abolished, disparities in voter registration and turnout due to race were erased, and African-Americans attained political office in record numbers. And yet the coverage formula that Congress reauthorized in 2006 ignores these developments, keeping the focus on decades-old data relevant to decades-old problems, rather than current data reflecting current needs.

The Fifteenth Amendment commands that the right to vote shall not be denied or abridged on account of race or color, and it gives Congress the power to enforce that command. The Amendment is not designed to punish for the past; its purpose is to ensure a better future. See *Rice v. Cayetano*, 528 U. S. 495, 512 (2000) (“Consistent with the design of the Constitution, the [Fifteenth] Amendment is cast in fundamental terms, terms transcending the particular controversy which was the immediate impetus for its enactment.”). To serve that purpose, Congress—if it is to divide the States—must identify those jurisdictions to be singled out on a basis that makes sense in light of current conditions. It cannot rely simply on the past.

Striking down an Act of Congress “is the gravest and most delicate duty that this Court is called on to perform.” *Blodgett v. Holden*, 275 U. S. 142, 148 (1927) (Holmes, J., concurring). We do not do so lightly. That is why, in 2009, we took care to avoid ruling on the constitutionality of the Voting Rights Act when asked to do so, and instead resolved the case then before us on statutory grounds. But in issuing that decision, we expressed our broader concerns about the constitutionality of the Act. Congress could have updated the coverage formula at that time, but did not do so. Its failure to act leaves us today with no choice but to declare §4(b) unconstitutional. The formula in that section can no longer be used as a basis for subjecting jurisdictions to preclearance.

## Opinion B

Recognizing that large progress has been made, Congress determined, based on a voluminous record, that the scourge of discrimination was not yet extirpated. The question this case presents is who decides whether, as currently operative, §5 remains justifiable, this Court, or a Congress charged with the obligation to enforce the post-Civil War Amendments “by appropriate legislation.” With overwhelming support in both Houses, Congress concluded that, for two prime reasons, §5 should continue in force, unabated. First, continuance would facilitate completion of the impressive gains thus far made; and second, continuance would guard against backsliding. Those assessments were well within Congress’ province to make and should elicit this Court’s unstinting approbation. . .

Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes [would be] like throwing away your umbrella in a rainstorm because you are not getting wet. . . .

Beyond question, the VRA is no ordinary legislation. It is extraordinary because Congress embarked on a mission long delayed and of extraordinary importance: to realize the purpose and promise of the Fifteenth Amendment. For a half century, a concerted effort has been made to end racial discrimination in voting. Thanks to the Voting Rights Act, progress once the subject of a dream has been achieved and continues to be made.

The record supporting the 2006 reauthorization of the VRA is also extraordinary. It was described by the Chairman of the House Judiciary Committee as “one of the most extensive considerations of any piece of legislation that the United States Congress has dealt with in the 27½ years” he had served in the House. 152 Cong. Rec. H5143 (July 13, 2006) (statement of Rep. Sensenbrenner).

After exhaustive evidence-gathering and deliberative process, Congress reauthorized the VRA, including the coverage provision, with overwhelming bipartisan support. It was the judgment of Congress that “40 years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th amendment and to ensure that the right of all citizens to vote is protected as guaranteed by the Constitution.” 2006 Reauthorization §2(b)(7), 120 Stat. 577. That determination of the body empowered to enforce the Civil War Amendments “by appropriate legislation” merits this Court’s utmost respect.

# Lesson 3: Should Congress Pass a New Voting Rights Act?

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## Overview

This controversial issues discussion using the Structured Academic Controversy (SAC) model focuses on the question: Should Congress pass a new voting rights act? Supporters say it will protect the voting rights of marginalized people and set minimum standards for how states conduct federal elections, but opponents say it is unnecessary and unduly intrusive and expensive for states?

**Note:** As this lesson is being prepared, two bills related to voting rights are being considered in Congress: (1) the For the People Act (H.R.1/S.1), a broad piece of legislation that deals not only with voting rights but campaign finance, government ethics, and redistricting, and (2) the John Lewis Voting Rights Advancement Act (H.R. 4), which is a narrower bill that addresses the issues with the 1965 Voting Rights Act (as reauthorized in 2006) that the Supreme Court cited in invalidating sections of the Act in the *Shelby County v. Holder* decision. In the extensions, we provide suggestions for having students track these pieces of legislation if they have not passed, as well as some ideas for adapting this lesson if one or both of the laws have passed.

**Focus Question:** *Should Congress pass a new voting rights act?*

**Objectives:** At the end of this lesson, students will be able to:

- Evaluate arguments for and against Congress passing a new voting rights act.
- Take and support a position on whether Congress should act to regulate elections.
- Seek common ground with classmates regarding voting rights and elections.

## Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civic Standards):

- SS.IS.1.9-12. Address essential questions that reflect an enduring issue in the field.
- SS.IS.7.9-12. Articulate explanations and arguments to a targeted audience in diverse settings.
- SS.IS.9.9-12. Use deliberate processes and apply democratic strategies and procedures to address local, regional or global concerns and take action in or out of school.
- SS.CV.2.9-12. Evaluate the opportunities and limitations of participation in elections, voting, and the electoral process.
- SS.CV.9.9-12. Evaluate public policies in terms of intended and unintended outcomes and related consequences.

## Common Core Standards

This unit addresses the following Common Core State Standards:

- CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.
- CCS.ELA-LITERACY.SL.9-10.4. Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

## Materials and Preparation

- If you are teaching face-to-face, create a continuum along one classroom wall, with “Yes” at one end, “Undecided” in the middle, and “No” at the other end. If you are teaching remotely, create a shared tally sheet on which students can vote.
- Prepare the visuals for sharing or projecting:
  - Visual 3-1: *Election Headlines, 2020*
  - Visual 3-2: *The Structured Academic Controversy*
- Make copies of Handout 3-1: *SAC Note Sheet and Reading* for all students or make it available electronically so students can access it online for discussion in breakout rooms.
- If you are teaching the lesson remotely, you will need to plan the breakout rooms for the SAC—a breakout room for every four-person group; create a list of the group members, indicating which students in each group will be Team A, which Team B.

**Time Required:** 2 class periods

## Procedure

1. Ask students: What do you remember about controversies surrounding the 2020 election? Project Visual 3-1: *Election Headlines, 2020* to prompt student thinking. (*Problems they might mention include whether mail-in ballots would arrive in time and when counting of such ballots should stop, concerns about lost and fraudulent ballots, the potential for harassment of voters or election workers, the pandemic's effects on registration and voting, lawsuits challenging the election results, differences in how states handle various questions, availability of poll workers, closing of polling places, purging of voters from voting rolls.*)
2. Encourage students to sort the problems/controversies into categories. This may be a difficult task for students; if they have problems coming up with categories, you might suggest categories and ask them to sort the items into these categories; categories could be disenfranchisement of marginalized voters, big differences across states in how voting is handled, lack of trust in elections/failure to accept election results, concerns about cybersecurity.

3. Tell students that one solution proposed to at least two categories of problems is for Congress to enact a new law that supporters say would protect the voting rights of marginalized people and standardize aspects of how states run elections. If you are teaching the lesson face-to-face, conduct a Human Continuum activity, asking students to indicate their initial responses to the deliberation question by standing along the continuum you have created along a classroom wall: Should Congress pass a new voting rights act? Supporters say it will protect the voting rights of marginalized people and set minimum standards for how states conduct federal elections, but opponents say it is unnecessary and unduly intrusive and expensive for states? If you are teaching the lesson remotely, ask students to show their initial point of view on the tally sheet you have created. However you are teaching the class, ask students with opposing views to explain the stands they are taking; ask students who are undecided what they would need to know to take a position on the question.
4. Explain that students will be taking part in a discussion called a Structured Academic Controversy. If students are not familiar with the SAC, use Visual 3-2 to introduce the steps in the model. Tell students that the steps will be included on a note-taking page of their handout so they will be able to keep track of where they are in the process.
5. Give students access to Handout 3-1: **SAC Note Sheet and Reading** and present the groups, making sure students know what group they are in and whether they will be part of Team A or Team B. Answer any questions students have about the process. Explain that you will be timing the steps and let them know when to move on to the next step; ask them not to move on until you tell them to—they should continue to work on that step even if they think they are done.
6. Put students into their group and ask them to begin the SAC. Let students know when to move on to the next step:
  - Preparation—15 minutes
  - Team A presentation—2 minutes; clarifying questions—1 minute.
  - Team B presentation—2 minutes; clarifying questions—1 minute.
  - Prep for reversing roles—2 minutes.
  - Team B presentation—1 minute; Team A presentation—1 minute
  - Group discussion—10 minutes
7. Draw the class back together and conduct a whole-class discussion:
  - How many groups agreed on the overarching question: Should Congress act to protect the voting rights of marginalized people and standardize the time, place, and manner of elections? Why were you able to reach agreement?
  - What other agreements did groups reach?
  - What were the most compelling arguments for each side?
  - What examples of conflicting information did you find? What would you need in order to evaluate which information is more accurate? How might you find that information?
  - What questions do you still have about this topic? How might you find answers to these questions?
  - What do you like and dislike about this process? How might a process like this help us discuss divisive issues in our community?
  - Why is it important to discuss controversial issues in a democracy?

## Extension

1. Have students learn about the For the People Act (H.R. 1/S.1) or the John Lewis Voting Rights Advancement Act (H.R. 4) to determine how they compare to the ideas students discussed in this lesson; Handouts 3-2 and 3-3 provide summaries of the two bills (the For the People Act covers areas not mentioned in the lesson, including campaign finance and gerrymandering, among others while the John Lewis Voting Rights Advancement Act more directly seeks to address the issues with the Voting Rights Act identified as problematic by the Supreme Court in *Shelby County v. Holder*). Do the arguments they made in the discussion apply to this actual pieces of legislation? Encourage students to track both bills on <http://Congress.gov> and find out whether their Senators and Representative support the bills. They could write emails to their legislators advocating for their positions, pro or con, on the bills.
2. If one or both of the bills have passed, you may want to adapt how you use this lesson; options include the following:
  - If you suspect your students will not be aware or be only marginally aware of the new law, conduct the SAC as described in the lesson. After the discussion, tell students that Congress has passed a bill or bills, provide them with a summary of the legislation that was passed (note that the deliberative process in Congress may result in changes from the summaries provided in the handouts), and ask students to return to their groups and deliberate whether they support the bill(s) as passed.
  - If your students stay informed about current events, acknowledge after you have introduced the SAC process that a law has recently been passed and provide students with a summary of the bill(s) passed (again, be aware the deliberative process in Congress may result in changes from the summaries provided in the handouts). Pose the deliberation question: Is this law good policy for the United States? Then provide students with Handout 3-1, explaining that it presents arguments for and against passing a new voting rights act; they will need to determine which arguments apply to the law as passed and use those arguments in their deliberation.
  - If you have research time available, acknowledge after you have introduced the SAC process that a law has recently been passed and provide students with a summary of the bill(s) passed (again, be aware the deliberative process in Congress may result in changes from the summaries provided in the handouts). Pose the deliberation question: Is this law good policy for the United States? Distribute the SAC Note Sheet from Handout 3-1 without the reading, having students revise the deliberation question and ask students to do Internet research to find the arguments for and against the new law(s). Conduct the SAC as described.
3. Help students design an investigation into the election safeguards in your community. Their research could include interviews with:
  - A young person who served as an election worker.

- An adult who has served as an election worker for several elections and can thus reflect on how procedures have evolved over time.
- An employee at the county clerk's office who will have the big picture of election safeguards.

Students can also research information available on the county clerk's office as well as the Illinois Secretary of State's office.

The results of their research project could be presented to the community as a public service.

4. Accepting the results of elections is a foundational value of democracy. Encourage students to read concession speeches made by presidential candidates of the past to identify how those candidates used their speeches to encourage their supporters to accept the results of the election.

Useful examples include:

- Hillary Clinton, <https://www.cnn.com/2016/11/09/politics/hillary-clinton-concession-speech/index.html>
- John McCain, <https://www.npr.org/templates/story/story.php?storyId=96631784>
- Al Gore, <https://www.americanrhetoric.com/speeches/algore2000concessionspeech.html>
- George H.W. Bush, <https://www.nytimes.com/1992/11/04/us/1992-elections-disappointment-transcript-president-s-speech-conceding-his-defeat.html>.

## **Visual 3-1: Election Headlines, 2020**

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**Judge Dismisses Effort to Derail Count of Electors' Votes**

--*Wall Street Journal*, January 1, 2021

**Georgia secretary of state orders ballot signature match audit in Cobb County**

--Fox News, December 14, 2020

**Supreme Court Shuts Door On Texas Suit Seeking To Overturn Election**

--WBEZ, December 12, 2020

**Here Are the Threats Terrorizing Election Workers**

--*New York Times*, December 3, 2020

**'No Evidence' Election Was Compromised, Cybersecurity Agency Says**

--WBEZ, November 13, 2020

**About 10,000 Pennsylvania mail-in ballots arrived after Election Day**

--*Chicago Tribune*, November 11, 2020

**Long lines, enthusiasm but no large-scale intimidation or harassment as US voters head to the polls**

--*Chicago Tribune*, November 3, 2020

**Millions of mail ballots have not been returned as window closes for Postal Service delivery**

--*Washington Post*, November 1, 2020

**With November Approaching, Election Officials Still Face Safety, Security Fears**

--WBEZ, July 26, 2020

**Southern U.S. states have closed 1,200 polling places in recent years**

--Reuters, September 9, 2019

**Millions of Americans have been purged from voter rolls**

--*Fortune*, January 1, 2014



## **Visual 3-2: The Structured Academic Controversy (SAC)**

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1. Your teacher will assign you to a group of four. Each group will be split into two pairs—Team A and Team B. The two teams will study opposing sides of the discussion question. With your partner, read the background material and identify facts and arguments that support your assigned position. Prepare to advocate the position. (15 minutes)
2. Team A will have two minutes to present its position. Team B will listen and make notes. After Team A has finished, the group can take 1 minute for Team B to ask clarifying questions. Clarifying questions are questions such as: Could you tell me more about . . .? or What did you mean when you said . . .? This is not the time to argue—it is time to make sure you understand Team A’s arguments.

Next, Team B will have two minutes to present its position while Team A listens and takes notes. Team A can then ask clarifying questions of Team B.

3. Next, pairs reverse positions. Use your notes and what you learned from the other team to present the strongest arguments you heard for the other position. Put your head together with your partner and decide which one or two arguments were strongest. If you can think of an argument the other team did not make, be sure to present that, as well. Team B will present first, Team A second. Each team will have one minute.
4. Discuss the issue in your group of four, with each person presenting his or her real views. Try to find points of agreement and disagreement among group members. If possible, reach consensus on something. Your agreement does not have to be a “yes” or “no” on the discussion question. You could agree on something between “yes” and “no” or agree on a totally new approach to the problem. If you cannot reach consensus on any part of the issue, try to agree on a process you could use to resolve disagreements. (10 minutes)
5. The class will debrief the discussion; your group will be asked to report on whether you reached consensus and, if so, on what.

## **Handout 3-1: SAC Note Sheet and Reading**

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### **SAC Note Sheet**

**Deliberation Question:** *Should Congress pass a new voting rights act?*

Your Team Assignment:

**Team A** [for a new federal law]

**Team B** [against a new federal law]

Step 1: Teams read the handout, highlighting facts and arguments that will help them argue for their assigned position. (15 minutes)

Step 2: Team A presents (2 minutes). Team B takes notes and then asks clarifying questions (1 minute). Team B then presents (2 minutes) and Team A takes notes and asks clarifying questions (1 minute).

Step 3: Teams decide on the strongest argument they heard from the opposing side and identify any other argument they could make for that position (2 minutes). Team B presents, followed by Team A (one minute each).

Step 4: Teams have an open discussion of the deliberation question, trying to reach consensus on something. What, if anything, did your group agree on? (10 minutes)

## SAC Reading

The election of 2000 led many Americans to ask new questions about how elections were being run across the United States. In the years since, the number of questions have increased:

- What was the best way to vote—with punch cards, voting machines, paper ballots?
- How should voting by mail be handled? Should it be easier or harder for people to get absentee ballots? What should be the cut-off for accepting mail ballots? What is done to ensure that mail ballots are not filled out by the wrong people?
- Do voter ID requirements make it harder for marginalized groups (black and Latinx voters, indigenous people, poor voters, older voters) to vote?
- Are unauthorized or dead people on the voter rolls? Do they cast votes or do people commit fraud by impersonating them?
- Why are polling stations, especially those in marginalized communities, being closed, making it more difficult for people to vote?
- How can information be shared with people in different states so they aren't confused about their own state's requirements for registering and voting?

One idea people have for addressing some of these issues is for the federal government to pass a new law. The law would protect voting rights for marginalized people—in essence, be a new Voting Rights Act. At the same time, it would also set minimum standards for procedures across all 50 states to make sure things are fair and equal everywhere.

This is the question you will be deliberating in your SAC:

***Should Congress pass a new voting rights act?***

### **Arguments for a New Law**

1. Congress has the power to pass such a law. Article 1, Section 4 of the Constitution says Congress can make regulations for the time, place, and manner of elections. In addition, the Fifteenth Amendment gives Congress the authority to pass laws that protect the voting rights of citizens of all races and colors.
2. Approximately 30 percent of eligible voters are not registered, some because they do not want to register, some because they don't know how, some because they can't travel to the office where they can register, and some because they do not have the required identification. One in eight registrations is somehow incorrect, resulting in eligible voters being turned away from the polls. In addition, many legitimate voters are mistakenly removed from the rolls. All of these factors reduce voter turnout. Passing a law that includes automatic registration for all eligible voters would solve these problems—by transferring data from other government offices to voter registration, states could save money and increase voter registration. Nineteen states and the District of Columbia already have automatic registration and it has worked well, increasing voter registration and voter turnout. We should have the system nationwide.

3. With the striking down of Section 4 of the Voting Rights Act in *Shelby County v. Holder*, many states that were previously required to get federal permission to make changes in their voting practices have struck large numbers of voters from their voting rolls. While keeping voting rolls up to date is important, many legitimate voters have been purged. Purges often end up removing disproportionate numbers of African American, Latinx, and Asian American voters from the rolls. The federal government should put restrictions on states' ability to strike people from the voting rolls because they missed an election. It should also require states to tell voters their names have been removed from the rolls and give them a chance to fix their registrations before an election.
4. Since the Supreme Court struck down Section 4 of the Voting Rights Act, states previously required to get federal permission to make changes in their voting practices have enacted policies, such as restrictive voter ID laws, that have disproportionate negative effects on minority or young voters. For example, in Texas, a gun license can be used as a form of identification, while a student ID from a Texas university cannot. In addition, the kind of voter fraud that these ID laws are supposed to prevent almost never happens! Preclearance of changes in areas with a history of discrimination is needed; this can be done by passing a new coverage formula to replace Section 4.
5. In many states, someone with a felony conviction can never again vote. In Maine and Vermont, people in prison are allowed to vote. Laws in other states run the gamut between these two extremes. It's a confusing array of laws that disenfranchises millions of Americans. African Americans are disenfranchised by these laws at a rate much higher than other Americans. We should adopt a law that those who have done their time for a crime and are back in the community should be allowed to participate in elections. Doing this is popular with Americans. In Florida in 2018, 65 percent of Florida voters passed a ballot measure restoring voting rights to those with felony convictions.
6. The confusion that occurred around mail-in voting in the 2020 election, which was held during a pandemic that made in-person voting potentially dangerous, clearly indicates the need for nationwide standards with respect to mail-in voting. Restrictions in some states resulted in many ballots being rejected. The ballots of younger and minority voters were more likely to be rejected than those of older white voters. How voters in non-“vote at home” states can get the ballot, how and where they can return them, how ballots are verified, and what the deadline for receiving ballots should be—the answers to these questions should be the same across all states. Voters should also be able to track their ballot and fix any problems in time for their ballot to be counted.
7. Working people can have difficulty getting to the polls. Several solutions to this problem are available. One is to allow early voting for two weeks prior to the election. Forty-five states and the District of Columbia already provide for early voting. All states should be required to do so. It can help people get to the polls in the midst of their busy schedules and prevent long lines on election day, especially in areas where many polling places have been closed. Another solution would be extending the hours that polls are open. A third solution would be to make Election Day a holiday.

8. With today’s technology, the danger of hacking from foreign countries or cybercriminals is ever present. States must provide paper backup for voting machines; experts say this is the most basic line of defense. To ensure security and public trust, audits—random checks of voting results—must be conducted as well.

### **Arguments against a New Law**

1. The Constitution gives the authority for deciding who should be able to vote to the states as long as their laws adhere to the Constitution. In addition, Article 1, Section 4 of the Constitution says that state legislatures shall decide the times, places, and manner of holding election for Senators and Representatives. Congress should not interfere with state powers regarding voting rights and elections.
2. Automatic registration is an intrusion on people’s right to privacy. Some people choose not to register for safety reasons; for example, police officers and victims of domestic violence do not want their addresses to be public information. Other people do not register for political or philosophical reasons. Automatic registration would violate their First Amendment rights. Finally, there is no hard evidence that higher rates of voter registration lead to higher voter turnout. We should concentrate our efforts on getting people who want to vote to the polls.
3. The state has the responsibility to ensure that the people on its voting rolls still have the right to vote. Are they still living? Have they moved to another state or another jurisdiction? Are they in prison (depending on the state’s laws)? This can be a difficult task. Sometimes, the state has to make inferences. For example, if a person has not voted recently and hasn’t responded to a mailed notice asking if they are still at that address, the state may assume they have moved. If people in certain groups don’t want to be “purged,” all they have to do is vote or reply to the mailed notice! The Supreme Court has even upheld this practice, as long as it is done in accordance with the National Voter Registration Act.
4. Reinstating Sections 4 and 5 of the Voting Rights Act is not necessary and would be unfair to the targeted jurisdictions. A report from the Census Bureau in 2013 showed that black registration and voting rates were higher than those for whites in several states that had been covered by Section 5. In addition, those rates were higher than in the rest of the nation. Minority turnout in the 2020 election was very high. There is no need for certain states to be subjected to U.S. Department of Justice “preclearance” of any changes in their voting laws. If discrimination does exist, it can be handled under Section 2 of the Voting Rights Act, which bans discrimination in voting nationwide.
5. Section 2 of the Fourteenth Amendment says a state can abridge voting rights of citizens who have participated in a crime. Thus, felony disenfranchisement is a question for the states, not the federal government. This argument is supported by the fact that people in one state may feel very differently about this from people in another state. Indeed, people in many states would not support the laws in Maine and Vermont, which allow people to vote while they are in jail! Prison is a punishment involving removal of an offender from participating in society; voting is one aspect of that participation.

6. Mail-in voting appears to offer more opportunities for fraud than in-person voting. One member of a household can, for example, complete the ballots of multiple voters in the household. Or a family member can intimidate others into voting as he/she wants. Mail-in ballots can be stolen from the mail or lost in the process of delivery. In addition, mail-in ballots are rejected more often than ballots cast in person. When mail-in ballots are accepted after the date of the election, the results of the election can be delayed. All of these potential problems cause people not to trust mail-in ballots. In this time of growing distrust of elections, we cannot afford a practice that builds distrust.
7. Studies from American University suggest that states that have extended early voting periods do not experience higher voter turnout. Thus, mandating early voting is unnecessary. Making Election Day a national holiday sounds like a nice idea. But essential workers still have to work on holidays, and creating a holiday is an expense to the government and businesses that have to pay their workers for another day off. Many states require employers to give workers time off (paid or unpaid) to go to the polls. This is the most sensible approach.
8. Cybersecurity is certainly a concern. But states and local governments have already invested a lot of money in the voting systems they currently have. They don't have the budget available to meet new requirements. Creating a paper record for voting machines would also create paper waste and use resources unnecessarily.

## **Handout 3-2: Summary of the For the People Act**

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The For the People Act is a wide-ranging bill to change many aspects of how elections take place in the United States. The bill addresses voter access, election integrity and security, campaign finance, and ethics for the three branches of government. Some of its major provisions are:

- The bill expands voter registration (e.g., automatic and same-day registration) and voting access (e.g., vote-by-mail and early voting). It also limits the practice of removing voters from voter rolls.
- The bill requires states to establish independent redistricting commissions to carry out congressional redistricting. This provision is intended to reduce partisan gerrymandering by both parties.
- The bill sets forth provisions related to election security, including sharing intelligence information with state election officials, supporting states in securing their election systems, developing a national strategy to protect U.S. democratic institutions, establishing in the legislative branch the National Commission to Protect United States Democratic Institutions, and other provisions to improve the cybersecurity of election systems.
- The bill addresses campaign finance. It expands the prohibition on campaign spending by foreign nationals, requires additional disclosure of campaign-related fundraising and spending, requires additional disclaimers regarding certain political advertising, and establishes an alternative campaign funding system for certain federal offices.
- The bill addresses ethics in all three branches of government. For example, it requires a code of conduct for Supreme Court Justices, prohibits Members of the House from serving on the board of a for-profit entity, and establishes additional conflict-of-interest and ethics provisions for federal employees and the White House.
- The bill requires the President, the Vice President, and certain candidates for those offices to disclose 10 years of tax returns.

**Source:** Adapted from the summary provided on Congress.gov (<https://www.congress.gov/bill/117th-congress/house-bill/1>).

## **Handout 3-3: Summary of the John Lewis Voting Rights Advancement Act**

The John Lewis Voting Rights Advancement Act attempts to restore the full protections of the original, bipartisan Voting Rights Act of 1965, which was last reauthorized by Congress in 2006. It addresses the issues identified by the Supreme Court in 2013 when it struck down a number of the Act's provisions. Some of the bill's major provisions are:

- The bill provides the tools to address discriminatory practices and seeks to protect all Americans' right to vote.
- The John Lewis Voting Rights Advancement Act creates a new coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years. Significantly, the 25-year period "rolls," or continuously moves, to keep up with "current conditions," so that only states that have a recent record of racial discrimination in voting are covered.
- States that have repeated and persistent violations will be covered for a period of 10 years, but if they establish a clean record moving forward, they can come out of coverage.
- The John Lewis Voting Rights Advancement Act establishes a targeted process for reviewing voting changes in jurisdictions nationwide, focused on measures that have historically been used to discriminate against voters. The process for reviewing changes in voting is limited to a set of measures, such as the institution of a voter ID law or the reduction of multilingual voting materials – practices that have historically been found to have the greatest discriminatory impact.
- The Act allows a federal court to order states or jurisdictions to be covered for results-based violations, where the effect of a particular voting measure (including voter ID laws) is to lead to racial discrimination in voting and to deny citizens their right to vote; • Increases transparency by requiring reasonable public notice for voting changes.
- The Act gives the Attorney General authority to request federal observers be present anywhere in the country where there is a serious threat of racial discrimination in voting.
- The Act revises and tailors the preliminary injunction standard for voting rights actions to recognize that there will be cases where there is a need for immediate preliminary relief.
- The Act increases accessibility and protections for Native American and Alaska Native voters.

Source: Adapted from a press release issued from the office of Senator Patrick Leahy (<https://www.leahy.senate.gov/imo/media/doc/John%20Lewis%20Voting%20Rights%20Advancement%20Act%20one%20pager.pdf>).



# Lesson 4: Young People and the Right to Vote

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## Overview

This lesson focuses on the campaign to lower the voting age from 21 to 18 and the relevance of the arguments made then to questions about who should vote today. Students (1) analyze primary source documents related to the campaign to lower the voting age, (2) compare the arguments from the 1960s with those being used by the Vote 16 movement today, and (3) make a poster, brochure, audio, or visual adapting arguments from the 1960s to their position on Vote 16 today (they can be for or against).

**Focus Question:** *How have young people worked to expand the right to vote?*

**Objectives:** At the end of this lesson, students will be able to:

- Describe the history of age requirements for voting in the United States.
- Explain the movement to lower the voting age to 18, its goals, who was involved, its methods, the arguments made, and the outcome.
- Compare current arguments regarding lowering the voting age to 16 with those made in the 1960s to advocate for the 18-year-old vote.

## Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civic Standards):

- SS.IS.1.9-12: Address essential questions that reflect an enduring issue in the field.
- SS.IS.4.9-12: Gather and evaluate information from multiple sources while considering the origin, credibility, point of view, authority, structure, context, and corroborative value of the sources.
- SS.CV.1.9-12: Evaluate the opportunities and limitations of participation in elections, voting, and the electoral process.
- SS.CV.4.9-12: Explain how the US Constitution established a system of government that has powers, responsibilities, and limits that have changed over time and are still contested while promoting the common good and protecting rights.
- SS.CV.6.9-12: Describe how political parties, the media, and public interest groups both influence and reflect social and political interests.

## Common Core Standards

This lesson addresses the following Common Core State Standards:

- CCSS.ELA-LITERACY.RH.9-10.1. Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information
- CCSS.ELA-LITERACY.RH.9-10.2. Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.
- CCSS.ELA-LITERACY.WHST.9-10.1. Write arguments focused on discipline-specific content.
- CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

## Materials and Preparation

- Make copies of the following handouts for all students or make them available electronically so students can access them online for discussion in breakout rooms:  
Handout 4-1: *Youth Voting Background*  
Handout 4-2: *Primary Source Analysis: The 6 C's*
- Prepare the *Data Packets* for sharing electronically or in hard copy.
- Prepare the visuals for sharing or projecting:  
Visual 4-1: *Which Qualities Does a Voter Need?*  
Visual 4-2: *Old Enough to Fight*
- If you are teaching the lesson remotely, you will need to plan the breakout rooms for the primary source analysis (the same groups can be used for the research activity); groups should be about four or five students each.

**Time Required:** 3-4 class periods

## Procedure

### *Part 1: Voter Qualifications*

1. Ask students: Who should be able to vote? Allow them to share some ideas, then show Visual 4-1: *Which Qualities Does a Voter Need?* Ask students, working individually or in pairs, to identify the five most important qualities a voter should have. Have them record their responses on the digital document or record them yourself.
2. Next, ask: Is there a voter qualification that would help ensure voters have the characteristics you have identified? If students mention qualifications that have been declared unconstitutional (pay a poll tax, be a woman, be an African American) or banned by law (literacy tests, be a member of other ethnic groups), be sure to point out that these qualifications are not allowed. If students mention age, tell them they will be looking more deeply at age as a qualification; if they do not mention age, ask them if setting a minimum age for voting is one way policymakers have addressed some of the qualities. Ask students to

identify what qualities might be more present in someone over the age of 18 than someone under 18. Then tell students they will be looking into age as a qualification in this lesson.

### ***Part 2: Exploring the History of Youth Voting***

1. Show students Visual 4-2: ***Old Enough to Fight*** and ask them to look for clues that tell them what change this button is advocating. (*It is advocating lowering the voting age from 21 to 18.*) According to the button, what is the rationale for this change? (*Eighteen-year-olds are expected to fight for their country in wars such as World War II or the Vietnam War so they should have a voice in choosing their leaders.*)
2. Distribute or provide access to the handout, ***Youth Voting Background***, and allow time for students to read it. If teaching remotely, your meeting could be adjourned while students do the reading.
3. Use questions such as the following to prompt a discussion of the reading:
  - Why do you think early leaders thought it would be bad for “lads from twelve to twenty-one” to seek the vote? What qualities of a voter might these “lads” lack?
  - The Fourteenth Amendment didn’t ban states from allowing people under 21 or women from voting. It explicitly allowed them to do so. So how do you think mentioning age and gender in the amendment affected the likelihood that women and young people would win the vote?
  - Whose point of view regarding military service and the vote do you agree with—President Eisenhower’s or Representative Celler’s? Why?
  - What is meant by “a movement”? Who would you predict was part of the movement for youth voting? What kind of activities do you think the movement undertook? What arguments do you think they made? Record their answers to this question on the board or in a shared document.

### ***Day 3: Analyzing Primary Sources***

1. Explain that students will be exploring the movement to lower the voting age by looking at primary sources—documents that were created at the time of the movement. Looking at the documents will give them a chance to test whether their predictions about the movement were correct and to expand their understanding.
2. If your students have not previously worked with primary sources, introduce them to an analysis form such as the one provided in Handout 4-2, ***Primary Source Analysis: The 6 C’s***.
3. Organize students into groups of four or five and make the ***Data Packet*** available to them. Tell students that their job will be to analyze the documents. Group members can work together on each document or divide up the documents among group members and report back to each other to share their findings. Their goal will be to answer four key questions:
  - Who was involved in the movement for lowering the voting age?
  - What kinds of activities did the movement undertake?
  - What arguments were made in favor of lowering the voting age?
  - What was the outcome of the movement’s efforts?

If you are teaching remotely, have students access the documents before sending them into breakout rooms to work.

4. Depending on your students, you may want to review each document as a class or simply ask students to report out on their answers to the questions above, making sure that students mention the following:
  - Among those who supported the movement were civil rights organizations like the NAACP, the teacher's union (NEA), White House Fellows, some political leaders, volunteer organizations, and many young people.
  - The movement held marches and other types of demonstrations, tried to educate people about the reasons for lowering the voting age, lobbied public officials at the state and national level, and worked to get other organizations to support the campaign.
  - Arguments for lowering the voting age included the following: Young people were better educated than previous generations; young people were very interested and active in campaigns about political issues; a lower voting age would channel the energy of young people into political participation rather than demonstrations in the street; young adults age 18-21 pay taxes, are married, and have families; young people serve in the military.
  - Several states lowered the voting age and, in 1971, the 26<sup>th</sup> Amendment to the U.S. Constitution was adopted, lowering the minimum voting age to 18.

#### ***Part 4: Researching the Vote 16 Arguments***

1. Ask students: Since the 26<sup>th</sup> amendment was ratified in 1971, do you think the question of voting age is settled? Why or why not? (*Accept all answers.*)
2. Project the website of Vote16USA (<http://vote16usa.org/>) and ask students what it tells us about that question. (*It confirms that people are still advocating for a lower voting age; this particular organization is focused primarily on states and localities rather than making a national change.*)
3. Ask: Of the arguments we learned were made in support of lowering the voting age to 18, which apply to allowing 16- and 17-year-olds to vote? (*Youth pay taxes; perhaps young people are better educated and are politically active.*) What other arguments could you make for allowing 16- and 17-year-olds to vote? What arguments could be made against lowering the voting age? (*Accept all answers.*)
4. Tell students that they will again be working in their groups, this time to research the arguments for and against lowering the voting age to allow 16- and 17-year-olds to vote, discuss which arguments they think are most compelling, and make a poster, brochure, audio, or visual highlighting what they think the best argument (either for or against) is. They can adapt an argument from the 1960s or come up with an entirely new argument. The vote16usa website is a good source for arguments in favor; ProCon.org presents arguments on both sides (<https://www.procon.org/headlines/lowering-the-voting-age-top-3-pros-and-cons/>).

5. Make the student products available around the room and conduct a gallery walk/discussion. Then conduct a straw poll to determine the class's view on lowering the voting age to 16. Ask: Do you think it is good for democracy to have ongoing conversations about who should vote? Why or why not?

### **Extension**

1. Encourage students to interview grandparents or other older acquaintances to find out what they remember about the Vote 18 campaign. Did they take part? What do they remember being the primary arguments supporting lowering the voting age? Conduct a class discussion of what students learned via these interviews versus what they learned from the primary sources in this lesson. Which is more reliable? Why?
2. *Tellin' the World* was a film made in 1972 to promote youth voter registration and youth voting. Encourage students to view the film (<https://boingboing.net/2016/07/29/tellin-the-world-1972-voti.html>) and compare it with appeals made by such contemporary organizations as Rock the Vote (<http://rockthevote.org>) or the March for Our Lives Road to Change campaign (<https://marchforourlives.com/road-to-change/>). How are the appeals similar? How are they different? What do the similarities and differences suggest about young people across the years? About those trying to influence young people? How would students create an appeal for young people to register and vote in the next election? "Uplifting the Student Vote" in the fall 2020 Teaching Tolerance provides ideas for undertaking voter registration campaigns in schools (<https://www.tolerance.org/magazine/fall-2020/uplifting-the-student-vote>).
3. According to Professor Rebecca de Schweinitz, polls at the time the 26<sup>th</sup> Amendment was enacted showed that the issues young people were most concerned about were the environment, economic problems, especially in urban areas, and race. Challenge students to research the concerns of young people today. They could conduct their own polls and/or consult existing studies, such as the Harvard Youth Poll (<https://iop.harvard.edu/youth-poll/harvard-youth-poll>). Students could discuss their findings, the similarities and differences with views 50 years ago, and how knowing young people's concerns could help encourage voting and other forms of active participation.

## **Visual 4-1: Which Qualities Does a Voter Need?**

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Choose the five qualities you think are most important to being a voter.

Idealistic

Experienced

Ethical

Rational

Informed

Passionate

Mature Creative

Committed

Independent

Socially aware

Responsible

Active

Practical

Honest

Capable of critical thinking

Economically stable



**Visual 4-2: Old Enough to Fight**

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## Handout 4-1: Voting Age Background

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When the Constitution was written, a minimum voting age of 21 was simply assumed. The Framers did not think any of the states would set a lower voting age. And none of them did. John Adams is reported to have said that lowering the voting age would encourage “lads from twelve to twenty-one” to believe they should be voting.

Young people were still engaged, even though they couldn’t vote. In the early 1800s, Young Men’s clubs were formed to support the various political parties. And teenagers were involved in campaign marches and other forms of campaigning. Although the activities of young women were more limited, many did still follow and discuss politics.

In 1868, Congress decided to insert the age minimum in the 14<sup>th</sup> Amendment. Section 2 of the Amendment said, in part:

. . . 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.

Basically, this meant that if states denied the right to vote for any males 21 and over, they could be punished by losing representatives in the House! They could lower their voting age below 21, though. None did until the 1940s.

In 1940, the draft age—the age at which young men could be required to join the military—was lowered to 19. This caused some people, including some members of Congress and First Lady Eleanor Roosevelt, to call for lowering the voting age. If young men could be asked to serve, shouldn’t they be allowed to vote? But nothing happened at the national level, and only two states had lowered their voting age by the mid-1950s—Georgia in 1943 and Kentucky in 1955.

In 1954, President Eisenhower, who had been an important general in World War II, spoke out in favor of lowering the voting age in his State of the Union:

For years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons.

—President Eisenhower, 1954 State of the Union



But other powerful leaders disagreed. Representative Emmanuel Celler, a powerful Congressman from New York, spoke for those opposed:

Voting is as different from fighting as chalk is from cheese. The thing called for in a soldier is uncritical obedience, and that is not what you want in a voter.

–Rep. Emmanuel Celler (NY)

It would take a movement to lower the voting age.

## Handout 4-2: Primary Source Analysis: The 5 C's

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Primary sources are created by people with their own biases and experiences. Thus, they must be carefully analyzed. Using the 5 C's is one way to approach primary sources.

<b>Citation</b> <ul style="list-style-type: none"><li>▪ Who created the source?</li><li>▪ When did they create it?</li><li>▪ What type of source is it?</li></ul>	
<b>Context</b> <ul style="list-style-type: none"><li>▪ What was going on at the time this source was created?</li><li>▪ How was the creator of the source involved in the events of the time?</li><li>▪ What biases did the creator of the source have?</li></ul>	
<b>Content</b> <ul style="list-style-type: none"><li>▪ What is the main idea expressed in the source?</li><li>▪ What details in the source do you think are important?</li></ul>	
<b>Connections</b> <ul style="list-style-type: none"><li>▪ What do you already know that connects to the source?</li><li>▪ How does the source connect with your predictions about the Vote at 18 movement?</li><li>▪ Do other sources support what you have learned from this source?</li></ul>	
<b>Conclusions</b> <ul style="list-style-type: none"><li>▪ How does this source contribute to your understanding of the Vote at 18 movement?</li></ul>	

## Data Packet

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### *Document 1*

“Youth is politically aware and politically frustrated. They will not be silenced. They are going to express themselves through whatever channels are available to them. At this time, they are denied the most desirable, peaceful, democratic channel of all, the vote. This country is at a crossroads.”

-Ian McGowan, Project 18 Director, 1970

“If we do not provide channels for effective political participation, then we only give credence to the words of irresponsible elements who attempt to influence the young by contending that there is no opportunity to work within the system.”

-Rep. Cornelius E. Gallagher (NJ) 1969

“A sizable segment of responsible young Americans will remain alienated unless we act now to provide them access to the cornerstone of democracy—the ballot box.”

-Rep. John C. Anderson (IL) 1970



Photo: University of Illinois, 1970

*Document 2*


**PROJECT 18**  
NATIONAL EDUCATION ASSOCIATION 1201 16th Street, Northwest Washington, D.C. 20036  
Affiliated With The Youth Franchise Coalition

July 15, 1969

PROJECT 18 NEWSLETTER

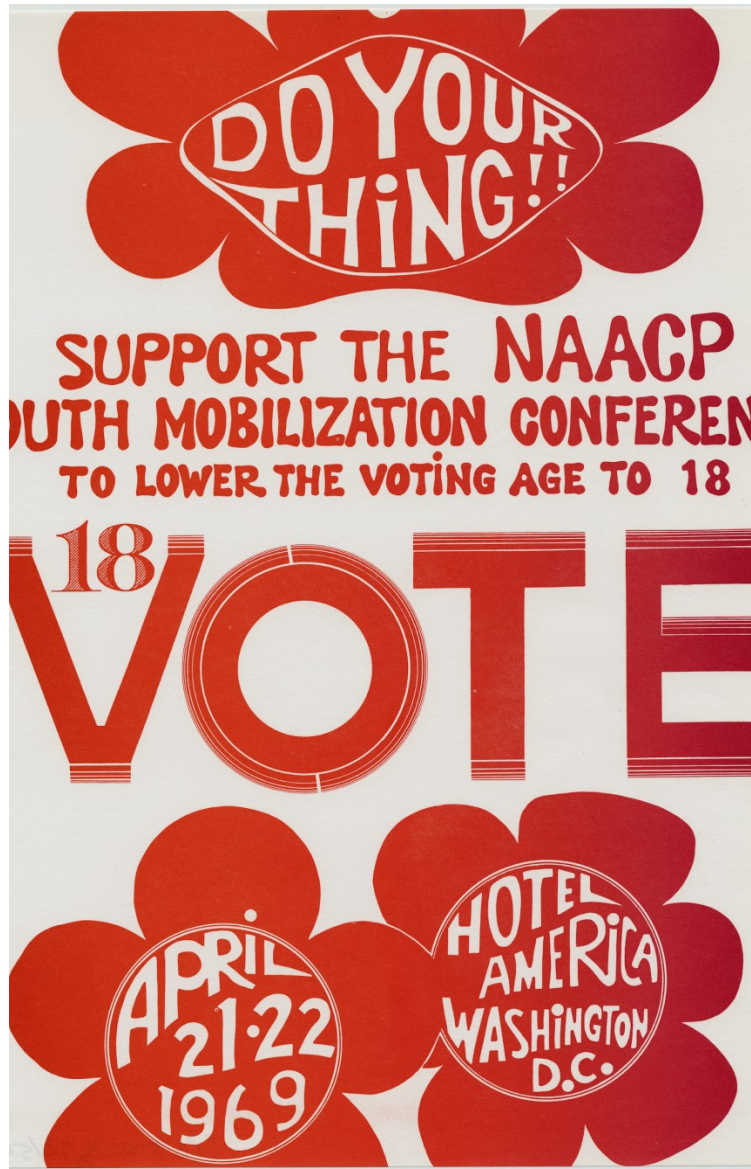
Project 18 and the Youth Franchise Coalition have been operating at the national level for only six months, yet the movement has been negligible to date, activity in the state houses has been considerable. The tally so far is as follows:

- \*Alaska: legislation passed lowering the voting age from 19 to 18. Election in August, 1970.
- \*Connecticut: legislation passed lowering voting age from 21 to 18. Election in November, 1970.
- \*Delaware: legislation passed lowering voting age from 21 to 19, must pass again next session and then to the voters in 1970.
- \*Hawaii: legislation passed lowering voting age from 20 to 18. Election in November, 1970.
- \*Massachusetts: legislation passed lowering voting age from 21 to 19. Election in November, 1970.
- \*Minnesota: legislation passed lowering voting age from 21 to 19. Election in November, 1970.
- \*Montana: legislation passed lowering voting age from 21 to 19. Election in November, 1970.
- \*Nevada: legislation passed lowering voting age from 21 to 18. Must pass again next session.

 Mr. Les Francis, Director ■ Miss Joan Sinclair, Assistant Director



*Document 3*



#### ***Document 4***

“We urge the following actions neither as remedial solvents to a ‘youth problem’ nor as techniques to create a new cadre of ‘youth bureaucrats’ but rather as steps to open the Government to a greater utilization of the talents, energies, spirit and idealism of its younger generation.”

“Confrontation or Participation?”

A Report to the President

-White House Fellows Association, 1968

**Document 5**

1968 Resolution: The Right to Vote at 18

“That the National Education Association believes that the learning and participation of youth in the democratic life of the school prepares them for responsible citizenship. The Association, therefore, recommends that the right to vote be granted to citizens at the age of 18.”

-Student NEA

NEA Backs 18 Year Vote  
COLLEGIANS OPEN VOTING-AGE DRIVE  
Let 18-Year-Olds Vote

Nixon to Youth:  
Drop Voting Age

Legislature Passes  
18-Year-Old Vote

Lower the voting age  
Voting at 18.  
Temple Student Leads Drive to Cut Voting Age to 18

Students Advised to Begin

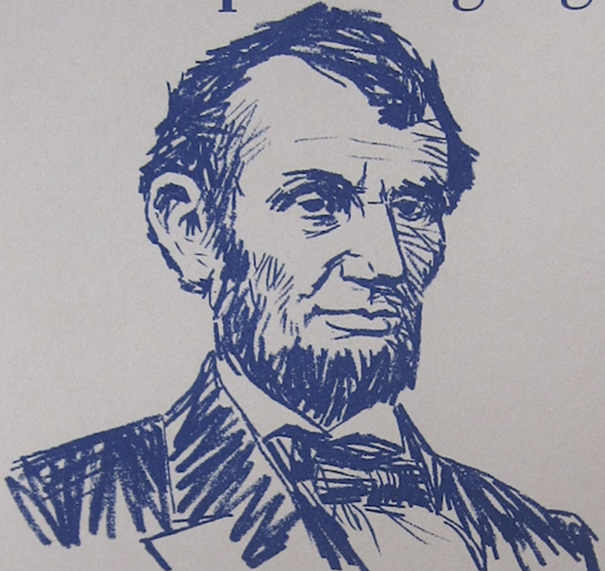
Ask Students To Press For Vote Reforms

18-year-old vote Approved by Legislature

Drive to Lower Age For Voting Planned

at 18 Now Favored  
64 Per Cent of Public

“I go for all sharing the privileges of the government who assist in bearing its burdens.”  
Abraham Lincoln



## *Document 6*

### **Confidential memorandum to State Executive Secretaries, Legislative Commission, and Citizenship Committee Members, and Heads of NEA Departments and Agencies related to the 18-year-old vote issue:**

Pursuant to Resolution 68-37 'Voting at 18,' the Citizenship Committee, the Legislative Commission and the Student NEA have the following action report:

We believe **the time is highly propitious for action** on young adult suffrage. **Both political parties** have approved the concept in their platforms, **both major candidates** are active advocates of this change, **youth interest in politics** is at a new high (and intensity), and the national polls show two-thirds of the public favoring voting for 18, 19, and 20-year-olds. On June 27<sup>th</sup> President Johnson asked Congress to submit a Constitutional Amendment to the states.

Your NEA leaders have held two **planning conferences** among our headquarters staff and are **meeting soon with national leaders of other organizations** which have endorsed the lowering of the voting age. We enclose copies of pertinent material on this subject, and our research is continuing. Please call on us for whatever facts you may need.

Our further studies into this issue have confirmed the good judgment of the Dallas Convention. Not only is this clearly a **matter of right** for America's young adults, but the **implications for our profession and for the schools** are vast. The addition of some 15 million younger voters (by 1972) will have a **tonic effect on school issues** as they are submitted to the voters. We believe our action will **defuse the revolutionary elements** which do not care about voting at all, but who have used the denial of the ballot to exacerbate their "confrontations."

We **do not foresee quick victory** on this important project. We shall pursue it on **two fronts**—the **state legislatures** of the 46 states which have not yet acted favorably, and the Congress for approval of the **Constitutional Amendment** which must thereafter be approved by two-thirds of the states. It is our hope that every state and local association will join us in this great campaign.

We will appreciate your comments and suggestions.

Yours sincerely,

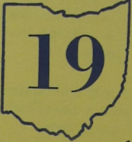
Dr. John Lumley, Executive Secretary, Legislative Commission



## Document 7

**WHY YOU SHOULD**

**VOTE YES**



**ON ISSUE ONE**

- over 50% of Ohio's 1,673 MEN killed in Vietnam were not eligible to VOTE.
- 19 and 20 year-olds in Ohio bear the burdens and responsibilities of marriage and parenthood.
- 19 and 20 year olds in Ohio pay taxes, drive cars, and carry firearms.
- 19 year-old vote in Ohio is supported by Governor James A. Rhodes, Senators William B. Saxbe and Stephen M. Young, Congressmen Vanik, Taft, Lukens, Wallen, Stokes, just to name a few.
- Presidents Eisenhower, Kennedy, Johnson, and Nixon, have all advocated a lower voting age.
- Platforms of both the Ohio Democratic and Republican parties endorsed a lower voting age in 1968.
- the 19 year-old vote in Ohio will increase the number of eligible voters by over 350,000.

**LET OHIO'S 19 AND 20 YEAR-OLDS VOTE!**

(OVER)

**WHAT ARE SOME OTHER REASONS WHY THE VOTING AGE SHOULD BE LOWERED IN OHIO TO 19?**

1. Young people today, in part because of the rising level of education, are better equipped to exercise the suffrage than were past generations of youth . . .
2. The idealism and enthusiasm of youthful voters would have a beneficial influence on the conduct of government . . .
3. Participation in politics through exercise of the suffrage is an important aspect of training youth for citizenship . . .
4. In most respects persons of 19 and 20 are legally considered to be of age and are held responsible for their actions . . .

**Possibly the most important question of this particular issue is: IN A TIME OF VIOLENCE, CAN CHANGE COME ABOUT IN A PEACEFUL MANNER WITHIN THE FRAMEWORK OF THE LAW? WILL YOU THE VOTER RESPOND TO A PEACEFUL YOUTH MOVEMENT RATHER THAN TO VIOLENCE-PRONE DEMONSTRATION?**

Issued by: OHIO VOLUNTEERS FOR VOTE 19  
44 E. Broad St., Columbus, Ohio 43215  
614/464-4567

CLARK W. WIDEMAN, EXECUTIVE DIRECTOR

“Over 51% of Ohio’s 1,673 Viet Nam casualties were not eligible to vote.”

# PROJECT 18

FACT SHEET

NATIONAL EDUCATION ASSOCIATION 1201 16th Street, Northwest Washington, D.C. 20036

ORIGIN OF THE TWENTY ONE YEAR AFFILIATED WITH THE YOUTH FRANCHISE COMMISSION  
United States the voting age with rare exceptions has been set at twenty-one. But the origin of this age limit is much more ancient than the republic. Twenty-one became the age of majority in England as a holdover from the feudal system. The superstitious early English placed special emphasis upon the number seven. Thus, the third multiple of seven became the change in the life of a man from adolescence to adulthood. This mystical determination of an age for maturity has become the basis for determination of the voting age to present day.

DEVIATION FROM THE RULE The ancient English standard also applied in colonization. However, as early as 1619 eighteen-year-olds were permitted to vote for delegates in the Virginia House of Burgesses. Thus, even in the early days of our nation, eighteen-year-olds were considered qualified to vote for legislators in one of the thirteen original colonies.

In recent years, four states have rejected the ancient test for voting at twenty-one. In 1943 Georgia adopted eighteen as the voting age. In 1955 Kentucky lowered the age of majority entirely to eighteen. Upon entry into the Union in 1959, Alaska allowed voting at nineteen. Hawaii's statehood constitution adopted twenty as the minimum voting age. Recently vote proposals in New Jersey and Ohio were narrowly defeated. In 1970, the electorate in ten states will vote on the issue. Over 36 governors have publicly endorsed a lower voting age and many legislatures and constitutional conventions are considering it. This indicates a trend toward a more relevant standard for determining suffrage in the United States.

## MAJOR ARGUMENTS

BETTER EDUCATED: This is the best educated generation of Americans in the nation's history -- over 78 percent are high school graduates; more than 47 percent are enrolled in colleges and universities.

POLITICALLY INTERESTED: Youth participation in recent political campaigns has demonstrated the concern, energy, and ability of young people to deal with political issues.

INVOLVEMENT: Lowering the voting age would channel the efforts of young citizens into legitimate participation in the political and governmental systems. The November 1969 report by The National Commission on the Causes and Prevention of Violence stated: "The anachronistic voting age-limitation tends to alienate them from systematic political processes and to drive them into a search for alternative.



Mr. Les Francis, Director ■ Miss Joan Sinclair, Assistant Director



sometimes violent, means to express their frustration over the gap between the nations ideals and actions. Lowering the voting age will not eliminate protest by the young. But it will provide them with a direct, constructive, and democratic channel for making their views felt and for giving them a responsible stake in the future of the nation."

TAX PAYERS: Young adults pay heavily in income and property taxes.

HEADS OF HOUSEHOLDS: Several million young women and men from 18 to 21 years of age have established homes and families but have no vote on the issues at city hall or the Capitol.

LITARY OBLIGATION: Have you tried to explain to a young serviceman why he should not be allowed to vote? Nearly one-half of American fatalities in Viet Nam since 1961 have been young men between the ages of 19 and 21. The valor abroad, the political involvement at home, and the deep concern for the complex social problems of our times, clearly indicates new compelling reasons for lowering the voting age to eighteen.

WHAT'S BEING DONE? The Youth Franchise Coalition is a nonprofit, nonpartisan confederation dedicated to lowering the voting age to 18, which was formally organized at a meeting in Washington, D.C., on February 5, 1969. Encouraged and assisted by many major civic and political leaders, representatives from over forty-five national and regional organizations joined together to form the Coalition. The combination of organizations in the coalition represents a force never before realized in favor of the 18-year-old vote.

WHAT YOU CAN DO!

PARTICIPATE IN THE TEACH-IN-- see attached sheet

MAKE YOUR VIEWS KNOWN to United States Senators and Congressmen and your state legislators.

START A CAMPAIGN--or join one--to encourage and support legislation in your state and nation to give the privilege of voting to the more than 12 million young adults now denied that right.

URGE ORGANIZATIONS of which you are a member to take a positive position on the issue.

KEEP US INFORMED on your activities.

Every citizen has a responsibility to take a position on the issue of young adults and their right to vote. "The time has come to grant our youth what we ask of them but still deny them--full and responsible participation in our American democracy." -President Lyndon B. Johnson

It is not because they are old enough to fight but because they are intelligent enough to cast an informed ballot. The new generation is far more educated and knowledgeable than its predecessor . . .I strongly favor extension of the franchise to 18-year-olds." -President Richard M. Nixon

FOR FURTHER INFORMATION WRITE PROJECT 18

## Document 9

### WHO AMONG US IS STILL BARRED FROM THE BALLOT?

Twelve million young adults in America in their twentieth, nineteenth, and eighteenth years who function as other adults do under most of our laws and customs yet are denied a vote.

#### BARRED FROM THE BALLOT

\* *Heads of Families.* Several million young women and more than one million young men 18 to 21 years old have established homes and families but have no vote on the issues at city hall, the courthouse, or the capitol.

#### BARRED FROM THE BALLOT

\* *Workers— Farm, Factory, Office.* Millions of young Americans work and support themselves but have no voice on the laws which regulate their work.

#### BARRED FROM THE BALLOT

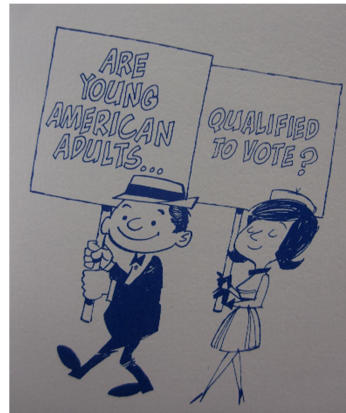
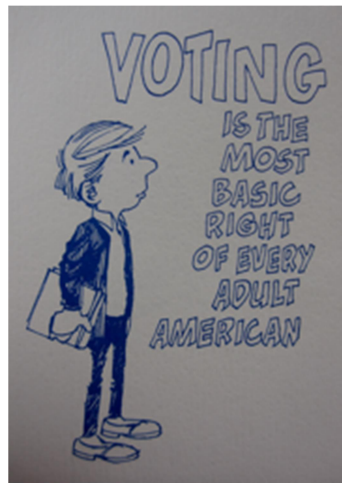
\* *Taxpayers.* "Taxation without representation is tyranny" applies to the twentieth century as it did to the eighteenth century. Young adults pay heavily in sales, use, gasoline and income taxes.

#### BARRED FROM THE BALLOT

\* *Servicemen and Women.* Have you tried to explain to a young American in uniform why he or she should not be allowed to vote?

#### BARRED FROM THE BALLOT

\* *College and University Students.* As never before, college and university students are eager to take part in the democratic process. Their idealism will sour if not channeled into constructive change. Can our nation afford this? If given the right to vote, their idealism can infuse new energy and initiative into our political processes.



*American government—local, state, and national—rests on the use of the ballot by all or nearly all of our citizens. They must make the big decisions about who shall be chosen to enact, enforce, and interpret the laws under which we all live.*

*When large numbers of responsible citizens are left out of this process— LOOK OUT! Then democracy itself is in trouble!*



***Document 10***

Amendment XXVI

Ratified July 1, 1971

Section 1.

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.

Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

# Lesson 5: The Electoral College

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## Overview

The election of 2016 marked the fourth time since the Civil War—and the second time in just 16 years—that the presidential candidate who won the popular vote did not win the electoral vote and therefore did not become President. Despite the discussion prompted by this controversial election, many citizens still do not fully understand how the Electoral College functions. As the noted historian Arthur Schlesinger, Jr., once said about the Electoral College: “It is impossible to explain to foreigners. Even Americans don’t understand it.”

More constitutional amendments have been proposed regarding the Electoral College—more than 500—than about any other subject. But no major reform has taken place since 1804, when the Twelfth Amendment was ratified. Why has reform not occurred, despite many calls for change? Does it still make sense to have the President and Vice President elected indirectly or should the Electoral College be reformed or abolished?

In this unit, students will consider the question: Should the United States keep, abolish, or reform the Electoral College? They pursue this question by taking part in a jigsaw activity in which they develop background knowledge about the Electoral College; analyze electoral data from the elections of 1992, 2000, 2008, and 2016; and simulate a commission established to consider the future of the Electoral College.

**Focus Question:** *Should the United States keep, abolish, or reform the Electoral College?*

**Objectives:** At the end of this lesson, students will be able to:

- Explain how the Electoral College functions.
- List reasons why the Founders created the Electoral College.
- Analyze recent data on popular and electoral votes.
- Describe potential problems with the Electoral College and reforms designed to address those problems.
- Take and defend a position on the future of the Electoral College.

## Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civic Standards):

- SS.IS.5.9-12. Identify evidence that draws information from multiple sources to revise or strengthen claims.

- SS.IS.6.9-12. Construct and evaluate explanations and arguments using multiple sources and relevant, verified information.
- SS.CV.2.9-12. Evaluate the opportunities and limitations of participation in elections, voting, and electoral process.
- SS.CV.4.9-12. Explain how the US Constitution established a system of government that has powers, responsibilities, and limits that have changed over time and are still contested while promoting the common good and protecting rights.

## Common Core Standards

This unit addresses the following Common Core State Standards:

- CCSS.ELA-LITERACY.RH.9-10.1. Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.
- CCSS.ELA-LITERACY.RH.9-10.8. Assess the extent to which the reasoning and evidence in a text support the author’s claim.
- CCSS.ELA-LITERACY.WHST.9-10.1. Write arguments focused on discipline-specific content.
- CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others’ ideas and expressing their own clearly and persuasively.

## Materials and Preparation

- Create K (What We Know), W (What We Want to Know), and L (What We Have Learned), either as large sheets of posting paper or as a shared electronic document
- Make copies of the following handouts in the numbers suggested or make them available electronically so students can access them online for discussion in breakout rooms:

Handout 5-1: *Electoral College Background* (Version 1) – enough for one-fifth of the class

Handout 5-1: *Electoral College Background* (Version 2) – enough for one-fifth of the class

Handout 5-1: *Electoral College Background* (Version 3) – enough for one-fifth of the class

Handout 5-1: *Electoral College Background* (Version 4) – enough for one-fifth of the class

Handout 5-1: *Electoral College Background* (Version 5) – enough for one-fifth of the class

Handout 5-2: *Analyzing the Data* – enough for the entire class

Handout 5-3: *Should We Keep, Abolish, or Reform the Electoral College* – enough for one-fifth of the class

- If you are teaching the lesson remotely, you will need to plan the breakout rooms for the jigsaw activity in advance. For the jigsaw activity, you will need 10 rooms—five for the initial reading and discussion and five for the jigsaw groups in which students teach each other what they

learned from their readings. You can reuse either set of groups for later small group work in the lesson.

**Time Required:** 4-5 class periods if all pieces of the lesson are used

## **Procedure 111**

### ***Part 1: K-W-L and Jigsaw on the Electoral College***

1. Open the lesson with a K-W-L activity on the Electoral College, the group that actually elects the president. Ask students: *What do you **Know** about the Electoral College?* Write their answers on the prepared posting paper or in the shared document you have created. Tell them they will have a chance to check the accuracy of the posted items in this lesson. Next, ask: *What do you **Want to know** about the Electoral College? That is, what questions do you have about the Electoral College?* Again, record their answers where they can be saved throughout the lesson. Tell students that they should look for answers to these questions as they proceed through the lesson. As they learn about the Electoral College, they should record the information on a third piece of paper or section of the board, labeled “*What We Learned.*” Encourage students, as they learn more, to correct or delete items in the **Know** category that turn out to be incorrect.
2. Explain that students will be working in five groups, with each group reading a different version of a handout providing **Electoral College Background**. Each group is to read their handout and, as a group, identify three important pieces of information that they will teach to classmates. Provide the handouts or explain how to access the electronic document. Tell students how long they will have to complete this task. Then create the groups.
3. Jigsaw the class into groups of five, with each group containing one representative from each of the five groups in the step above. The task in the new groups is for each student to teach their group members the important pieces of information from their reading.
4. Conduct a class discussion of what the students learned in the jigsaw activity. Such questions as the following can be used to guide discussion:
  - What reasons did the Founders have for creating the Electoral College? Do you think those reasons apply today?
  - How are electors selected? Do you think this is a good way to select electors? Why or why not?
  - What laws must electors follow? Would you try to place greater restrictions on electors? If so, what would they be?
  - How are the electoral votes for most states awarded? Who decides how the votes are awarded?
  - How are the electoral votes actually cast? What happens once the votes are received in Washington, D.C.



5. Allow time for students to add to/correct the K-W-L sheets created at the beginning of the activity.

### ***Part 2: Analyzing Election Data***

1. Tell students that they are going to have a chance to analyze some voting data. That may sound a bit intimidating, but students should try to have fun with the numbers and see what they can learn. They will be working in small groups so they can support each other. Distribute Handout 5-2: **Election Data** or explain how to access the electronic version. Create the groups; if you are teaching remotely, you can use either the first or second set of groups from Part 1 of the lesson.
2. Reconvene the class and go over students' answers. Through discussion, help students understand the following ideas:
  - Thinking about blue and red states (the winner-take-all electoral college system) may mask the closeness of an election and cause us not to think about the people in a state who do not vote with the majority. It may also cause candidates to ignore some states as they are campaigning.
  - As seen in the 2016 election (and 2000), the electoral college system does give small states a voice (or, from the opposite perspective, gives them more power relative to their population than large states). This does not mean that the large states are not important—the winners in all four of these elections carried at least some of the large states—they just do not have the proportionate influence their population might suggest they should have.
  - A number of states have tended to vote consistently for one party or the other over the past eight elections. Candidates are less likely to pay attention to these states because they are counting them as already won or lost; additional votes don't matter with the Electoral College, so doing better than the previous party candidate in a "safe" state really does not help. The swing states are the focus of the most campaign attention (which may be an advantage or disadvantage to those states, depending on your view). You may want to share the map showing the number of campaign events in various states during the 2016 campaign available at <https://www.nationalpopularvote.com/campaign-events-2016> to illustrate this point. There is also data to suggest that swing states get more than their fair share of federal funding (see, for example, <https://www.vanderbilt.edu/csdi/research/CSDI-WP-01-2011.pdf>).
  - Someone could win either the popular vote or electoral vote with support in only two regions of the country (if one of those regions is the northeast quadrant) or three regions. Because population is not distributed equally, neither method would appear to ensure that all regions will be attended to.
3. Again have students return to the K-W-L sheets and add and update information.

### ***Part 3: Simulated Congressional Commission***

1. Explain that the students are going to be acting as a congressional commission. A commission is a group appointed to study an issue and make recommendations about it. Their commission is going to be making recommendations about the Electoral College.
2. Distribute Handout 5-3: **Should We Keep, Abolish, or Reform the Electoral College?** or screen share it and explain how students can access the electronic version. Go over the directions with students. Groups are to complete three steps: (a) read about arguments for keeping, abolishing, or reforming the Electoral College, (b) read about and discuss options (retain, replace, or reform) they might recommend to Congress, and (c) choose one option and prepare to give the reasons for their choice. Remind students to use what they have learned throughout this unit in their discussions and decision-making. If time permits, encourage students to do additional research on the various options presented.

**Note:** If your students have a good understanding of the Electoral College, you may want to assign each group to represent a particular interest—large states, small states, the two major political parties, and third parties, for example. Alternatively, students could be assigned to represent specific states. Two final votes might be taken—one in which each commission member gets one vote and one in which they get the number of electoral votes held by their assigned states.

3. After groups have completed the assigned tasks, ask which groups favored Option 1. Ask them for their reasons. Ask others who rejected this option why they did. Repeat this process for each option.
4. Conclude by holding a class vote on the options.

### **Extension**

1. Ask groups that supported keeping the Electoral College to research the challenge to electoral votes that occurred in Congress on January 6, 2021, and make a recommendation about changing or retaining the law that provides an avenue for such challenges (The Electoral Count **Act** of 1877).

Ask groups that supported abolishing the Electoral College to consider strategies for keeping people in small states politically engaged, as they may feel they are being neglected without the Electoral College privileging their votes.

Ask groups that supported reforming the Electoral College to investigate the best option for reform, focusing on which reform would be most acceptable to both large and small states.

2. Alternatively, the class could delve more deeply into the National Popular Vote Interstate Compact. Illinois was the third state to join the Compact back in 2008. It could be interesting for

students to find out how much adults in their lives know about the Electoral College and the Compact and to undertake some adult education.

3. A final alternative might be to look at the events around the 2020 election and suggest “lessons learned” that might to reforms that would prevent problems related to a defeated candidate who is unwilling to concede and seeks to overturn the election results.

## **Handout 5-1: Electoral College Background (Version 1)**

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### **Why Did the Founders Create the Electoral College?**

One major reason for creating the Electoral College was lack of confidence in the voters. The Founders did not think voters across the country (even though the country was much smaller at the time) would have enough information to vote intelligently in a national election.

The Electoral College was also seen as reflecting the system of federalism because it gave an important role to the states. Some scholars argue that the Electoral College was created to give small states a voice in the election. Others say the Electoral College gave disproportionate power to slave states. Since each slave was counted as three-fifths of a person in establishing a state's population, white male voters in the slave states had a "louder" voice than voters in free states.

### **Has the Electoral College Been Changed During U.S. History?**

A constitutional amendment (Amendment XII) was passed after the troubled election of 1800. The Founders did not provide for the development of political parties. Thus, the Constitution called for each elector to vote for two candidates. The candidate receiving a majority of the electoral votes would become President. The candidate receiving the second highest number of electoral votes would become Vice President. Political parties developed very rapidly, however, and candidates ran as party slates for President and Vice President.

By 1800, political parties—the Federalists and the Democratic-Republicans—had developed. Thomas Jefferson was the Democratic-Republican party's nominee for president. Aaron Burr was its nominee for Vice-President. Democratic-Republican electors voted for the two candidates—and they ended up tied. The election went into the House of Representatives. It took 36 ballots to resolve the issue and elect Jefferson President. Amendment XII provided that electors would cast separate votes for President and Vice President, preventing the problem of 1800 from happening again.

### **How Could the Electoral College Be Changed?**

Abolishing the Electoral College or making a change that would apply to all states would require a constitutional amendment. Article V of the Constitution describes how the Constitution can be amended. There are two ways for amendments to be proposed. Congress can propose an amendment by a two-thirds vote of both houses. Two-thirds of the state legislatures can call for a convention to propose amendments. There are also two ways for amendments to be adopted. One

is by a vote of three-fourths of the state legislatures. The other is by conventions in three-fourths of the states.

Some other reforms could be made at the state level. That would not be easy, either. All the states would need to act for a reform to be adopted nationally.

## **Handout 5-1: Electoral College Background (Version 2)**

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### **What Does an Elector Actually Do?**

In each state, the electors for the candidate who won the popular vote meet on the Monday following the second Wednesday of December. They meet in their state capital and cast their electoral votes, one vote for President and one for Vice-President. At least one of their votes must be for someone from outside their state. This provision was designed to keep electors from voting for “favorite sons”—candidates from their home states.

### **Must Electors Vote for the Candidate Who Won Their State’s Popular Vote?**

The Constitution does not say that electors must vote according to the results of the popular vote. However, 26 states and the District of Columbia have laws “binding” electors to vote for the candidate who won the state’s popular vote. Some state political parties also have rules requiring electors to pledge to support the party’s nominee. The Supreme Court has held that a party can require such a pledge; in 2020, it ruled for the first time on state requirements, holding that a state can enforce an elector’s pledge to support their party’s nominee and the state voters’ choice (*Chiafalo et al. v. Washington*, 2020).

Most electors do vote for their state’s winner—more than 99 percent over the course of U.S. history. However, so-called “faithless” electors do pop up from time to time. In 2016, several people did not vote for the winning candidate in their state. One elector in Hawaii voted for Bernie Sanders, while one elector in Texas voted for Ron Paul and another voted for John Kasich. Three electors in Washington voted for Colin Powell and one voted for Faith Spotted Eagle. This situation was unusual: most elections see no or perhaps one faithless elector.

### **What Happens After the Electors Cast Their Votes?**

The electoral votes are sealed and sent to the President of the Senate. On January 6, he or she opens and reads them before both houses of Congress. From the total of 538 electoral votes, a candidate must receive a majority—270 votes—to win. If no one obtains a majority, the U.S. House of Representatives selects the President from the top three contenders. But each Representative does not get a vote. Instead, each state gets one vote, and a majority is required to elect the President. The elections of 1800 and 1824 were decided in the House of Representatives.

If no one receives a majority of electoral votes for Vice-President, the Senate makes the choice from among the top two contenders for that office.

At noon on January 20, the President and Vice-President are sworn in.

## **Handout 5-1: Electoral College Background (Version 3)**

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### **Where in the Constitution is the Electoral College Described?**

The Constitution does not use the term *Electoral College*. That term seems to have come into use in the early 1800s.

Article II, Section 1 of the Constitution does refer to electors, describing their role and the processes by which they vote and by which the votes are counted. Amendment XII, ratified on June 15, 1804, makes changes to the Constitution's original provisions regarding the electors.

### **Who Selects the Electors?**

The Constitution says it is up to the state legislatures to decide how electors will be chosen. The process for selecting electors therefore varies somewhat from state to state. However, the political parties usually pick the electors; in some states, the electors are selected at a state convention, while in others the party leaders pick the electors. Being picked as an elector is often a "thank you" for working hard for the party. Third-party or independent candidates usually select their electors themselves because they don't have an established party structure in every state.

In the nation's early years, state legislatures picked the electors. In some states, they picked electors without even having a popular vote for president. South Carolina was the last state to not have a popular vote; every state has had a popular vote since the Civil War.

In every state, there is a different slate of electors for each presidential candidate appearing on the ballot. When citizens vote, they are actually choosing which electors will get to cast their votes in the Electoral College. In the past, the electors' names appeared on the ballot below the names of the candidates. In most states today, a short ballot is used. On the short ballot, the electors' names do not appear at all. In some states, the ballot may say "Electors for" near the names of the presidential candidates. In other states, the electors are not mentioned.

### **Who Can Be an Elector?**

The Constitution does not set any qualifications for electors, so it is mostly up to the states. The Constitution does prohibit some people from being electors. Article II, Section 1, Clause 2 of the Constitution says that the following people *cannot* serve as electors: U.S. Senators, U.S. Representatives, or any "person holding an Office of Trust or Profit under the United States." The Fourteenth Amendment says that State officials who have engaged in insurrection or rebellion against the United States or given aid and comfort to its enemies cannot serve as



electors. This provision was designed to keep Confederate officials from serving as electors after the Civil War.

## **Handout 5-1: Electoral College Background (Version 4)**

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### **How Many Electoral Votes Does Each State Have?**

Each state gets one electoral vote for each of its U.S. Senators and Representatives. For example, Illinois has 20 electoral votes (18 representatives + 2 Senators). According to the Twenty-third Amendment, the District of Columbia gets the same number of electors as the least populous states.

Since every state has two Senators no matter how many people it has and since even the smallest states get one Representative, the smaller states have more electoral votes per person in the state than the larger states do. For example, California, the largest state in terms of population, has 55 electors, each of whom represented approximately 714,000 people in 2016. Wyoming, which is the smallest state in terms of population, has 3 electors, each of whom represented only 195,000 people in 2016. This gives people in smaller states a “louder” voice.

The number of electoral votes per state can change after the census, or count of people, which is taken in years ending with 0. After the census, the 435 members of the House of Representatives are reapportioned among the states. If a state has gained population relative to other states, it may gain representatives. If a state has lost population, it may lose representatives. As a state loses or gains representatives, it loses or gains electoral votes. For example, Illinois lost one representative after the 2000 census and another after the 2010 census.

### **How Are the Electoral Votes for a State Awarded?**

In 48 states and the District of Columbia, electoral votes are awarded on a winner-take-all basis. The person who gets the most votes in the state wins all of the state’s electoral votes.

Maine and Nebraska award their votes differently. The candidate who gets the most votes in each U.S. House of Representatives district wins the electoral vote for that district. The remaining two electoral votes go to the overall state winner. In practice, the candidate who wins the state usually wins in every district. Nebraskans did split their vote in 2008 and Mainers split theirs in 2016.

### **How Can a Candidate Lose the Popular Vote but Win the Electoral Vote?**

Because almost all states award their electoral votes using a winner-take-all method, a candidate can lose the popular vote but win the electoral vote. This happened in 1876, 1888, 2000, and 2016. To understand how this happened, let’s look more closely at the 2016

election results. Hillary Clinton, the Democratic candidate, won 20 states and the District of Columbia, but had large margins of victory in some of these states, including the very populous states of California and New York. However, those “extra” popular votes did Clinton no good in terms of the Electoral College. Donald Trump won 30 states, including many smaller states, which have more electoral votes per person than larger states. In the end, those small-state electoral votes—along with such large states as Texas and Florida—put Trump over the “top” in the Electoral College.

## **Handout 5-1: Electoral College Background (Version 5)**

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### **What Happens After the Election?**

Some of the details about what happens after the election is specified in the Constitution, some in federal and state laws.

Different states have different deadlines for getting in absentee or mail-in ballots. That means that counting the ballots can go on for different amounts of time in different states.

A week after the election, states start certifying their election results. This means that state officials are declaring their results are official. States try to complete their certification by six days before the electors cast their votes. This is called the “Safe Harbor” deadline because federal law says that results finalized by then will be accepted by Congress. By making their vote official, the states determine which electors will be voting.

The first Monday after the second Wednesday in December, the electors meet in their state capitals and cast their votes for president and vice president. The votes are sent by registered mail to the president of the U.S. Senate, who also happens to be the vice president of the United States, and other officials.

On January 6, the House of Representatives and Senate meet together to count the electoral votes. The president of the Senate runs the meeting. According to a law passed in 1877, members of Congress may object to the results from any state. If a member of each house objects to the votes of a state, it triggers two-hour debates in each house, followed by a vote on whether to accept or reject the objections. Both houses must vote to accept the objections. If they do not, the electoral votes submitted by the state are counted.

Objections have been raised three times—in 1969, 2005, and 2021. The objections have never been accepted by either the House or Senate.

When the electoral votes have been counted, the President of the Senate declares the presidential and vice presidential candidates receiving 270 or more electoral votes the winners. Because the president of the Senate is also the vice president of the United States, this has several times meant announcing their own defeat.

### **What Happens After the Electoral Votes Are Counted?**

In the early days of the United States, travel was slow, so getting to the capital (first in New York, then Philadelphia, and finally Washington, DC) could take more time than seems possible to us today. For that reason, the inauguration did not occur until early March following the November election. This did, sometimes, cause problems. For example, when Franklin Roosevelt defeated President Herbert Hoover in the 1932 election, the Depression was worsening, and the

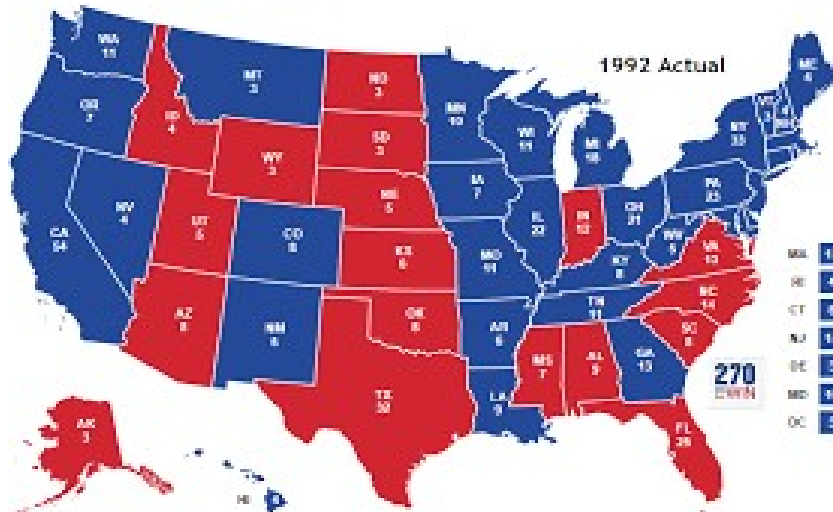
country wanted action. This situation may have ensured the 20<sup>th</sup> Amendment, which moved inauguration day up to January 20, would be ratified by the states!

Today, some people think the gap between November and January 20 is too long. Once the nation has made a decision, they say, the new president should take office. Others say the two-plus months allows any problems with the election to be resolved and gives the new president time to choose people to work in his administration and to have an orderly transition.

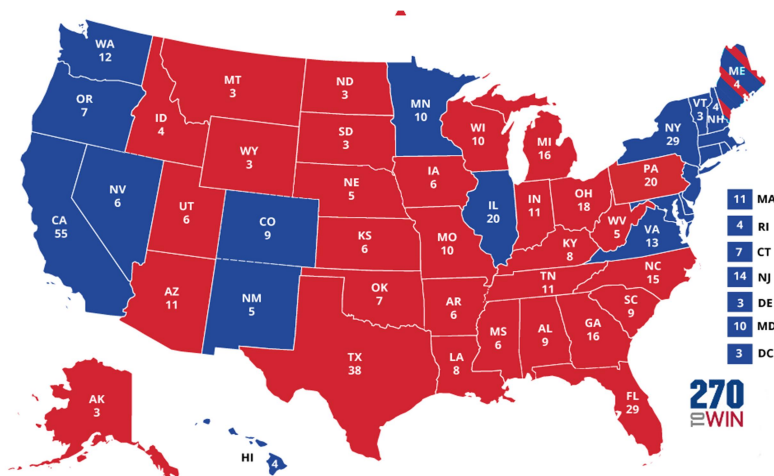
## Handout 5-2: Analyzing the Data

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1. You have probably heard politicians or journalists talking about red and blue states. This refers to the maps used on election night to show which candidate won each state. Study the two maps below, one for 1992 and one for 2016. Write a sentence that gives your general impression of the election. An example is: “Candidate X won the election of \_\_\_\_ by a landslide.”

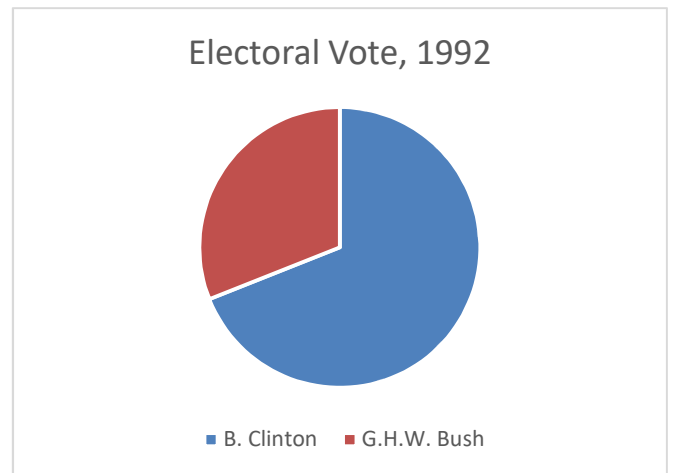
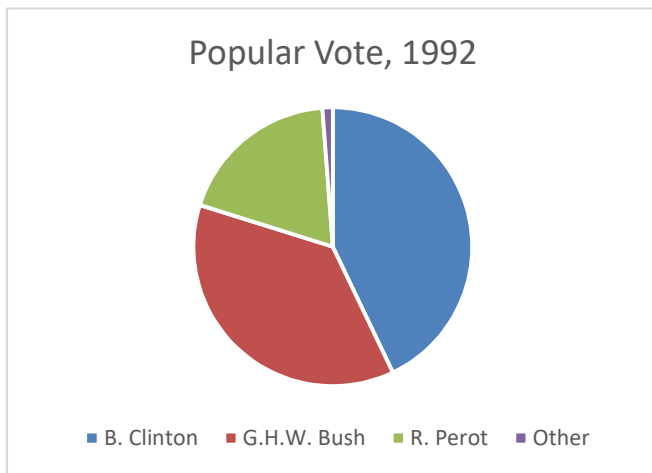


Results of the 1992 election: Blue means the Democrat Bill Clinton won the state’s electoral votes, Red means the Republican George H.W. Bush won the state.

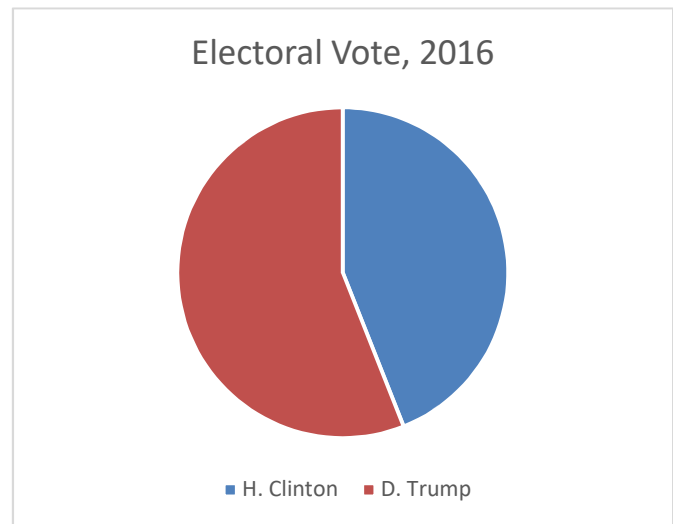
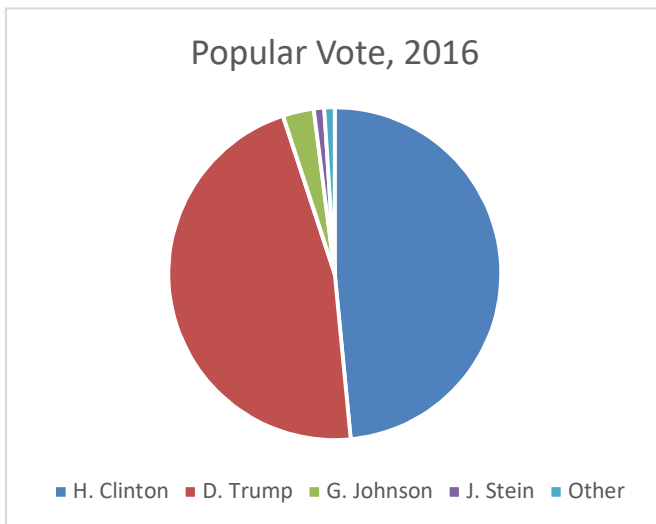


Results of the 2016 election. Blue means the Democrat Hillary Clinton won the state’s electoral votes, Red means the Republican Donald Trump won the state’s electoral votes.

2. Now look at these circle graphs showing the popular vote (votes by the people and the Electoral College) for the same two elections. How would you summarize the election results based on these circle graphs?



3. Compare the graphs and the maps. Which do you think presents the most accurate picture of how close the elections were? Why? How might thinking about red and blue states affect the way we think about elections? Who is left out when we represent the election results on a map? Are those people better represented in the pie charts?



4. One of the arguments for the Electoral College is that it requires a candidate to have support from all across the country. Did the winning candidate in these two elections have support from all parts of the country? Do you think a candidate could win the popular vote with support from only one or two parts of the country?

5. Look carefully at the numbers for some of the smaller states (remember that smaller means fewer people). Some examples of smaller states are Alaska, Delaware, District of Columbia, North Dakota, South Dakota, Vermont, and Wyoming. Look carefully at the numbers for some of the states with lots of people. Some examples of larger states are California, Texas, New York, Florida, Pennsylvania, Ohio, and Illinois. Can you think of any way to use these numbers and your map to show the power of large or small states in the Electoral College system?
6. If you looked at the data for all the elections from 1992 to the present, you would see that some states voted for the same party's candidate in every election. For example, California, Illinois, and New York have voted for the Democratic candidate in every election since 1992. Alabama, Kansas, and Texas have voted for the Republican candidate in every election since 1992. Other states, called swing states, may vote for one party's candidate in one election and the other party's candidate in the next election; for example, Ohio's voters have favored the Democratic candidate in five of the last eight elections and the Republican candidate in the other three.

In the Electoral College system, how much attention do you think candidates pay to a state that always votes for the other party? Would that change if the president was elected by popular vote? Explain your answer.

7. Do you think your state has more power with the Electoral College system than it would if the president were elected by popular vote? Why or why not?



## **Handout 5-3: Should We Keep, Abolish, or Reform the Electoral College?**

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Imagine that you have been appointed to a congressional commission. The commission is to make recommendations on the future of the Electoral College. Should we keep, abolish, or reform the Electoral College. That is, should we keep it as is, get rid of it entirely, or change it in some way?

\* \* \* \*

In your group, read and discuss these arguments for retaining, reforming, or replacing the Electoral College.

### **Arguments for Retaining the Electoral College:**

People who want to keep the Electoral College make the following arguments, among others:

- **The Electoral College contributes to the unity of the country by requiring a candidate to get support from across the country.** In a popular vote system, one populous region or a few large cities could dominate the election. But no one region contains the majority (270) of electoral votes required to win the presidency. Thus, a candidate must have support from around the country. This is why most candidates choose a running mate from a different region. Having a geographically balanced ticket gives the people broader representation.
- **The Electoral College supports our federal system of government.** The Electoral College preserves the balance of power established by the Framers in the Constitution. It does this by giving states the key role in choosing who will lead the federal government. It allows every state to have a voice, even the small states. The small states might be overlooked if the election was decided by the popular vote. The collective opinions of the individual states are more important than the opinion of the national population taken as a whole.
- **The Electoral College supports political stability by supporting the two-party system.** A new or minor party would have trouble winning enough popular votes in enough states to have a chance of winning the election. The two major parties tend to absorb minor party movements as they attempt to win popular majorities in the states. At the same time, third party movements must tone down their views if they hope to reach any of their goals. Thus, we end up with two large political parties that represent the center of public opinion. This leads to more stability than having dozens of smaller political parties serving those with diverse and, sometimes, extreme views.

- **The Electoral College ensures that candidates campaign in both rural and urban areas.** Small states have a big role to play in the Electoral College. That can be seen in the results in 2000 and 2016. In those years, Republican candidates won the 270 electoral votes needed by winning many small states. This fact motivates candidates to seek votes in states covering both rural and urban areas, making sure that a diverse range of citizen’s concerns is heard.
- **The Electoral College gives organized interest groups more power.** Even small interest groups in a state can make the difference in winning that state’s electoral votes. Ethnic minority groups in the United States are mostly concentrated in the states with the most electoral votes. Thus, these groups become very important to the candidates. The same principle applies to other special interest groups such as labor unions, farmers, environmentalists, and so on. Changing to direct election of the president would damage minority interests. A national popular majority would simply overwhelm their votes.

### **Arguments for Abolishing the Electoral College:**

People who favor replacing the Electoral College with popular election of the President make the following arguments, among others:

- **The Electoral College system does not fairly represent the popular vote.** In the Electoral College system, the loser of the popular vote can still win the Presidency. That is undemocratic. This has happened four times since the Civil War—1876, 1888, 2000, and 2016. A third party candidate or a close election could keep any candidate from getting a majority of electoral votes. The House of Representatives would then decide who will be President. If that happens, each state gets just one vote, no matter their population, which is another way that a candidate who lost the popular vote could become President.
- **The Electoral College undermines the principle of “one person, one vote” by giving more weight to smaller states.** Less populous (smaller) states automatically get three electors. They get one for each Senator and one for their Congressperson. Thus, voters in small states have more power than those in large states. Wyoming voters should not have more influence than California voters!
- **The Electoral College is outdated and unnecessary.** The Electoral College was one of the compromises the Framers made to get small states to support the Constitution. The Framers did not think a popular vote for President was a good idea. They were concerned that voters would not have enough information to make a wise choice. Today, modern technology gives us access to a wealth of information, so this concern is no longer valid.
- **The Electoral College distorts political campaigns.** Candidates generally concentrate their efforts in “swing states.” These are states that sometimes vote Republican, sometimes Democratic. Candidates ignore the voters in “safe states” entirely. In addition, the way issues are raised in the campaign depends on which states’ electoral votes are in play..

- **The Electoral College may discourage voting and negatively affect voter turnout.** If opinion polls show one candidate leading by a large margin in a state, voters in that state may decide not to vote. Voters whose candidate is ahead may feel their votes are not needed. Those whose candidate is behind know their votes will not be represented in the Electoral College. In addition, states get their assigned number of electoral votes no matter how many people vote. States with the same number of electoral votes may have very different turnouts on Election Day.

### **Arguments for Reforming the Electoral College:**

Some people argue that it is not an either/or situation. The Electoral College could be changed to keep some of its benefits while addressing the arguments against it. The main focus of this group is changing the way electoral votes are awarded by the states. Reformers advocate getting rid of the “winner-take-all” approach, instead using an approach that reflects the split in the popular vote within a state. Reformers say this approach would still reflect federalism and keep the small rural states from being completely outvoted by the large urban states while making the process less likely to result in an Electoral College winner who lost the popular vote. This approach would encourage people to vote, no matter where they lived or what the polls said about who would win their state.

Another idea for reforming the system is to increase the size of the House of Representatives, making the number of people represented in large and small states more equitable and thus reducing the influence of small states in the Electoral College. Of course, this change would also impact the operation of the House in ways that might be challenging.

\* \* \* \*

Next, read and discuss the options listed below. Replacing or reforming the Electoral College throughout the nation will require a constitutional amendment; although states could individually change their way of awarding electoral votes (Options 3 and 4). However, most states don’t want to act alone, fearing that if they change and no one else does, they will lose power within the system.

**Option 1: Keep the Electoral College.** Keeping the Electoral College means retaining the winner-take-all format used in most states. This option would require no action.

**Option 2: Replace the Electoral College with a Popular Vote.** This option would involve abolishing the Electoral College. The election would be decided by who received the most votes of the people. Variations of this option would require a candidate to receive a certain percentage of the popular vote to be declared the winner. If no one met the established standard, there would be a run-off election between the top two candidates. To be fully implemented, this option would require a constitutional amendment. However, 15 states and the District of

Columbia have joined the National Popular Vote Interstate Compact committing their state's electors to whichever candidate wins the popular vote at the national level. The commitment does not go into effect until enough states join the compact to reach 270 electoral votes. At that point, it would in effect mean whoever won the popular vote would win the election

**Option 3: Reform the Electoral College by Awarding Electoral Votes by Congressional District.** In this option, if a candidate wins in a congressional district, the candidate wins the electoral vote for that district. The overall winner in the state gets two additional electoral votes (those representing the two Senate seats). This option can be adopted by the states. However, if all states were required to use it, a constitutional amendment would be needed. This approach would make congressional districting even more important than it already is. In some states, where one party has control of the legislature during redistricting, that party is able to draw congressional districts to its advantage. In North Carolina in 2010, even though the state overall is a swing state, the party that controlled redistricting drew ten congressional districts for itself and only three for the other party. (This is called partisan gerrymandering.)

**Option 4: Reform the Electoral College by Awarding Electoral Votes Proportionally.** In this method, each state's electoral votes would be allotted according to the percentage of popular votes received. Thus, if candidate A receives 60 percent of the vote, he/she receives 60 percent of the state's electoral votes. This option can be adopted by the states. However, if all states were required to use it, a constitutional amendment would be needed.

\* \* \* \*

As a group, choose one of the options described above. Be prepared to report on the reasons for your decision.

# Lesson 6: Lessons Learned from the 2020 Election

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## Overview

This lesson looks at the lessons experts say we should take away from the tumultuous election of 2020. Students peruse a reading on “lessons learned” in preparation for a discussion; teachers can choose between two readings from different perspectives or have students read both. Students then discuss the reading(s) using the civil conversation discussion model. The civil conversation is a text-based model designed to deepen understanding.

**Focus Question:** *What are the lessons learned from the election of 2020?*

**Objectives:** At the end of this lesson, students will be able to:

- Describe lessons learned identified by election experts.
- Participate productively in a text-based discussion.
- Draw their own conclusions about lessons learned from the election of 2020.

## Illinois Learning Standards for Social Science, 9-12

This lesson addresses the following Illinois learning standards (Inquiry Skills and Civic Standards):

- SS.IS.1.9-12. Address essential questions that reflect an enduring issue in the field.
- SS.CV.1.9-12. Distinguish the rights, roles, powers, and responsibilities of individuals and institutions in the political system.
- SS.CV.2.9-12. Evaluate the opportunities and limitations of participation in elections, voting, and electoral process.
- SS.CV.7.9-12. Describe how political parties, the media, and public interest groups both influence and reflect social and political interests.

## Common Core Standards

This unit addresses the following Common Core State Standards:

- CCSS.ELA-LITERACY.RH.9-10.1. Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.
- CCSS.ELA-LITERACY.RH.9-10.2. Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.
- CCSS.ELA-LITERACY.SL.9-10.1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on

- grades 9-10 topics, texts, and issues, building on others’ ideas and expressing their own clearly and persuasively.

## Materials and Preparation

- Make copies of Handout 6-1: *Civil Conversation Reading Guide* for all students or make it available to students electronically.
- Choose which of the readings below you will have students read (you may opt to use both, having all students read both articles or having half the students read each article):
  - "Successes, Failures and Lessons Learned from the 2020 Election," by Stephanie Liebergen, Newsy (December 28, 2020), <https://www.newsy.com/stories/successes-failures-lessons-learned-from-the-2020-election/>. The news site Newsy contacted secretaries of state around the country to find out what they thought worked in the election of 2020 and what they think needs work. Although no Republican secretaries responded, the reporter did speak with others having a conservative perspective. The focus is on mail vs. in-person voting, public perceptions of the election, and how citizens stepped up to help.
  - "Strengthening Our Elections and Preventing Election Crises: Lessons and Recommendations from the 2020 General Election," National Task Force on Election Crises (January 28, 2021), [https://static1.squarespace.com/static/5e70e52c7c72720ed714313f/t/600192b45103a7521617d636/1610715829231/ElectionTF-Report\\_2021.pdf](https://static1.squarespace.com/static/5e70e52c7c72720ed714313f/t/600192b45103a7521617d636/1610715829231/ElectionTF-Report_2021.pdf), (Executive Summary, pp. 1-2). The Task Force is a “cross-partisan” group devoted to ensuring that elections are free and fair. This reading is more challenging than the Newsy piece, and it is more openly critical of attempts to suppress voting and overturn the election results.
- Prepare to project or share electronically Visual 6-1: *What Was Your Lesson Learned?*
- Self-adhesive notes

**Time Required:** 2 class periods

## Procedure

1. Give each student a self-adhesive note. Acknowledge that some time has passed since the 2020 election but people are still thinking about the implications of the election for the future. People have their own “takeaways”—what they learned from observing or taking part in the election.
2. Project or share electronically visual 6-1: *What Was Your Lesson Learned?* Explain that these comments are from teachers who served as poll workers and who had students that served as well. They shared what they learned with other teachers. Ask students to read the two comments aloud; emphasize that these are takeaways based on these teachers’ own experiences and those of their students.
3. Ask students to write one of their own takeaways from the 2020 election on a self-adhesive note. It should be based on their own experience, no matter how engaged or unengaged they were with the election. Tell students they will need their self-adhesive notes later in the lesson, so they should put them somewhere safe.

4. Explain that our personal lessons learned are important because they frame how we respond to events and perhaps what we do in the future. But sometimes our takeaways can be wrong, we can overgeneralize from our individual experience, or we can simply lack a larger perspective. Thus, it's helpful to look at what the experts think. In this lesson, students are going to have a chance to read about and discuss what lessons learned experts take from the 2020 election.
5. Distribute the *Civil Conversation Reading Guide* handout and go over the prep sheet with students. Help students understand that the purposes of a civil conversation is to more deeply understand the subject of the reading they will be doing and to reach common ground with other students. Make the reading(s) available to students. Explain that students are to read the article(s), highlighting important passages and answering questions 1-5 on the prep sheet. Students are likely to need some coaching on what makes a good discussion question, as they are initially likely to pose factual questions that ask for additional information. While these questions can be good spurs to additional research—they can be put in a “parking lot” for students to come back to later—they are not successful discussion questions. Stress that good discussable questions do not have right or wrong answers but ask for different opinions or interpretations. You may want to provide simple examples, based on the Pledge of Allegiance or another familiar text:
  - When was the Pledge of Allegiance written and who wrote it? (Researchable question)
  - What is the most important part of the Pledge to you? Why? (Discussable question)
6. Arrange students' chairs or desks in a circle; it is important for the discussion process for everyone to be able to make eye contact. If you are doing separate discussions on the readings or want to have a smaller group engaged in discussion at any one time, a fishbowl arrangement can work. Arrange the chairs in concentric circles; one group will sit in the outer circle and observe as the other group sits in the inner circle and discusses. Halfway through the discussion, the groups can switch. For online discussion, it may be advisable to use a “virtual” fishbowl by having half the students turn off their video so that the students engaged in the first half of the discussion are visible and can see each other easily; again, groups can switch halfway through the discussion.
7. Review the Rules for Civil Conversation from the handout, stressing that students should be aware of not dominating the conversation.
8. You can begin the discussion in several ways:
  - Conduct a “whip-around” in which each student briefly states either something they disagreed with or their most pressing question. You can then ask students to begin discussing something that a number of students disagreed with or a question that more than one student posed.
  - Ask a student volunteer, someone who is particularly passionate about some aspect of what they read, to launch the discussion.
  - Pose a question that you think will spark a good conversation. Examples:
    - For the Newsy article:  
Which argument about mail-in voting do you most agree with? Why?
    - For the Task Force article:



According to the Task Force, how did social media both help and hinder the election?

--For either:

What is the most discouraging opinion presented in the article? The most encouraging?

9. At the end of the discussion, if you are teaching in person, ask each student to turn to a neighbor, share their last best thought, and hear their partner's last best thought. If you are teaching remotely, have each student post their last best thought in the chat function and read at least two other students' best thoughts.
10. Have students complete the final questions on the *Reading Guide* handout.
11. Conduct a final discussion, using such questions as:
  - What worked? What improvements can we make in our next conversation?
  - What insights did the experts' opinions provide? Did their perspective motivate you to adjust your original takeaway?
  - What insights did you have as a result of listening to classmates' ideas?
  - What common ground did you find with other members of the group?
  - How might the United States move forward in improving our elections, especially in terms of building public confidence that our elections are free and fair?

## Extension

1. Help students set up an interview (online or in person) with a staff member from your local County Clerk's election office to find out what they learned from the 2020 election and whether they agree or disagree with students' takeaways and/or the lessons learned discussed in the reading. After the interview, have students reflect on how this expert opinion helps them refine their own takeaway.
2. Ask students to design a survey to find out what their parents/guardians took away from the 2020 election. When they have gathered the information, the class could compile the findings to see how their parents' views compare with their own and those of the experts.
3. Encourage more advanced students to select recommendations from page 3 of the Task Force report that they find interesting and research how the recommendation could be implemented. They could start with the Task Force report itself and move on to Internet research. They should use electronic or traditional media to share the results of their research.

## **Visual 6-1: What Was Your Personal Lesson Learned?**

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These observations are from two teachers who served as election judges and whose students served as well:

These kids [her students] came back from being election judges and they were fired up . . . it was an amazing experience. They reported they were registering people to vote, checking signatures, and explaining things in Spanish. They told the class how the election worked—that it wasn't some willy-nilly process where anyone can vote.

--Sue Fuhrer, Metea Valley High School

As a poll worker, I learned that it is next to impossible to believe that there was fraud.... seriously. Everything is double and triple checked.

--Tracy Freeman, Normal West High School

## Handout 6-1: Civil Conversation Reading Guide

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### Rules for Civil Conversations

1. Read the text as if it were written by someone you really respect.
2. Everyone in the group should participate in the conversation.
3. Listen carefully to what others are saying.
4. Ask clarifying questions if you do not understand a point raised.
5. Be respectful of what others are saying.
6. Refer to the text to support your ideas.
7. Focus on ideas, not personalities.

### Civil Conversation Reading Guide

Reading \_\_\_\_\_

Read through the entire selection without stopping to think about any particular section. Pay attention to your first impression as to what the reading is about. Look for the main points and then go back and re-read it. Briefly answer the following.

1. This selection is about \_\_\_\_\_
2. The main points are:
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_
3. In the reading, I agree with \_\_\_\_\_
4. In the reading, I disagree with \_\_\_\_\_
5. What are two questions about this reading that you think need to be discussed? (The best questions for discussion are ones that have no simple answer, but that can use materials in the text as evidence.)  
\_\_\_\_\_  
\_\_\_\_\_

The next three questions should be answered after you hold your civil conversation.

7. What did you learn from the civil conversation?
  
8. What common ground did you find with other members of the group?
  
9. Look at the “takeaway” you wrote on the self-adhesive note. Did you learn anything that would help you refine your “takeaway” to make it more accurate or more useful? Rewrite your “takeaway” here and explain why you changed it.

# Resources

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## Voting Rights and Elections

*Baker v. Carr* Supreme Court Case Packet, and *Citizens United v. FEC* Supreme Court Case Packet, Street Law, <http://streetlaw.org>. Materials are free, but you must register to access. Click on Educators > Free Resource Library > SCOTUS Materials.

Bassetti, Victoria, *Electoral Dysfunction: A Survival Manual for American Voters* (New York: The New Press, 2012). Also see the related film and teacher's guide at <http://electoraldysfunction.org>.

Congress and the Voting Rights Act of 1965, The Center for Legislative Archives, the National Archives, <https://www.archives.gov/legislative/features/voting-rights-1965>.

Constitution of the United States: Fifteenth Amendment, Constitution Annotated, Library of Congress (2021), <https://constitution.congress.gov/constitution/amendment-15/>

Project: Voting Rights Act, Brennan Center for Justice, <https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-reform/voting-rights-act>.

Lind, Dara, "19 Maps and Charts that Explain Voting Rights in America," Vox (August 6, 2015), <https://www.vox.com/2015/8/6/9107183/voting-rights-map-chart>.

Murray, Jacqui, "Teaching Students about Elections," *NEA News* (September 15, 2020). List of excellent resources for teaching elections.

*Shelby County v. Holder*, SCOTUSblog, <https://www.scotusblog.com/case-files/cases/shelby-county-v-holder/>. Numerous resources on the landmark case.

The Election Collection, PBS Learning Media, <https://rmpbs.pbslearningmedia.org/collection/election-collection/>.

Voting and Elections: Resources for a Civil Classroom, Teaching Tolerance, <https://www.tolerance.org/moment/voting-elections>.

Voting Rights, iCivics, <https://www.icivics.org/teachers/lesson-plans/voting-rights>. Lesson on the evolution of voting rights.

Voting Rights in the United States, Facing History and Ourselves, <https://www.facinghistory.org/educator-resources/current-events/voting-rights-united-states>. Lesson plan on barriers to voting.

Weiser, Wendy R., Daniel I. Weiner, and Dominique Erney, “Congress Must Pass the ‘For the People Act’,” Brennan Center for Justice (January 29, 2021), <https://www.brennancenter.org/our-work/policy-solutions/congress-must-pass-people-act>.

## **Youth Voting**

Black Youth Project, Center for the Study of Race, Politics, and Culture, University of Chicago, <http://blackyouthproject.com/>. Resources on politics, race, culture, gender and sexuality.

Black Youth Vote, The National Coalition on Black Civic Participation, <https://www.ncbcp.org/programs/byv/>. Tools to develop civic leadership skills among African American youth.

Center for Information & Research on Civic Learning and Engagement, <https://circle.tufts.edu/>. Numerous reports focused on youth voting and participation.

Claire, Manisha, “How Young Activists Got 18-Year-Olds the Right to Vote in Record Time,” Smithsonian Magazine (November 11, 2020), <https://www.smithsonianmag.com/history/how-young-activists-got-18-year-olds-right-vote-record-time-180976261/>.

Harvard Youth Poll, Harvard Kennedy School Institute of Politics, <https://iop.harvard.edu/youth-poll/harvard-youth-poll>. Results of twice-yearly polls of young people’s concerns and attitudes regarding social, political, and economic issues.

Lideres Initiative, Unidos, <https://www.unidosus.org/issues/youth/>. Youth leadership development programs for Latinx young people.

Mikva Challenge, <https://mikvachallenge.org/>. Programs and resources for action civics.

PBS NewsHour Extra Lessons on youth and voting, <https://tinyurl.com/y6kmvs9g>.

Rock the Vote, <https://www.rockthevote.org/>.

20 for '20: Twenty Youth Focused Latino Nonprofits to support in 2020! Latino Community Foundation, <https://latinocf.org/20-youth-focused-latino-nonprofits-to-support-in-2020/>. List of groups working to engage Latinx youth in civic activities.

## **Electoral College**

Amar, Akhil Reed, and Charles Fried, “Should the Electoral College Be Abolished?” Room for Debate, *New York Times* (November 16, 2016),



<https://www.nytimes.com/roomfordebate/2016/11/16/should-the-electoral-college-be-abolished>.

Black, Eric, “10 Reasons Why the Electoral College Is a Problem,” MinnPost (October 16, 2016), <https://www.minnpost.com/eric-black-ink/2012/10/10-reasons-why-electoral-college-problem>.

Dave Leip’s Atlas of U.S. Presidential Elections, <https://uselectionatlas.org/>.  
“Election Day to Inauguration Day: What Happens in Those 78 Days?” Street Law (2020), <https://store.streetlaw.org/election-day-to-inauguration-day-timeline>.

Lewis, Tyler, “Why We Should Abolish the Electoral College,” Huffington Post (January 12, 2016), <https://www.huffingtonpost.com/tyler-lewis/why-we-should-abolish-the-1-b-8961256.html>.

National Popular Vote, <http://www.nationalpopularvote.com/>.

Posner, Richard A., “In Defense of the Electoral College.” Slate (November 12, 2012), [http://www.slate.com/articles/news\\_and\\_politics/view\\_from\\_chicago/2012/11/defending\\_the\\_electoral\\_college.html](http://www.slate.com/articles/news_and_politics/view_from_chicago/2012/11/defending_the_electoral_college.html).

“Problems with the Electoral College,” The Center for Voting and Democracy: Fair Vote, <http://www.fairvote.org/reforms/national-popular-vote/the-electoral-college/problems-with-the-electoral-college/>.

Should the Electoral College Be Abolished? Debate.org, <http://www.debate.org/opinions/should-the-electoral-college-be-abolished>.

U.S. Electoral College, National Archives and Records Administration, <http://www.archives.gov/federal-register/electoral-college/>.

Von Spakovsky, Hans A., *Destroying the Electoral College: The National Popular Vote Scheme*, Heritage Foundation Legal Memorandum #73, <http://www.heritage.org/research/reports/2011/10/destroying-the-electoral-college-the-anti-federalist-national-popular-vote-scheme>.

Wegman, Jesse, *Let the People Pick the President* (New York: All Points Books, 2020).

## **General Resources**

Civics Education Resource Site, <http://IllinoisCivics.org>. Many resources, including a Media-Literacy Toolkit and Post-Election Resources.

Constitutional Democracy Project, Chicago-Kent College of Law,  
<https://constitutionaldemocracyproject.org/>.

Jack Miller Center, <https://jackmillercenter.org/>.

The National Constitution Center, <https://constitutioncenter.org/interactive-constitution>