

Significant Supreme Court Decisions

Standard 5.6: Significant Supreme Court Decisions

Research, analyze and report orally or in writing on one area [[5.6a](#), [5.6b](#), or [5.6c](#) below] in which Supreme Court Decisions have made significant changes over time in citizens' lives. (Massachusetts Curriculum Framework for History and Social Studies) **[8.T5.6]**



[The Supreme Court at Dusk](#) by Joe Ravi licensed [CC BY-SA 3.0](#)

FOCUS QUESTION: How Do Landmark Supreme Court Cases Impact Our Lives?

A **landmark case** is a case that has an “lasting effect on the application of a certain law, often concerning your individual rights and liberties” ([Judicial Learning Center, 2015, para. 2](#)).

Most major issues in United States history have been the subject of a landmark decision by the Supreme Court. In just the past 70 years:

- [Brown v. Board of Education of Topeka](#) (1954) declared that the doctrine of separate but equal is inherently unequal;
- [Gideon v. Wainwright](#) (1963) gave anyone charged with a crime the right to an attorney whether they could afford one or not;
- [Miranda v. Arizona](#) (1966) said that police officers must advise prisoners of their rights before being questioned;
- [Roe v. Wade](#) (1973) established a woman’s constitutional right to an abortion; and
- [Obergefell v. Hodges](#) (2015) legalized same-sex marriage in all 50 states.

How has the Supreme Court interpreted the rights of individuals in key areas of people's lives? The modules for this topic consider that question in terms of six areas of rights in conflict: the First Amendment, due process, the flag and the Pledge of Allegiance, school prayer, national security and

gun control.

Modules for this Standard Include:

1. [INVESTIGATE: First Amendment Rights: Landmark Cases](#)
 - 1.1 [UNCOVER: *Tinker v. Des Moines* and Student Speech in School](#)
2. [INVESTIGATE: Due Process and Equal Rights: *Mendez v. Westminster* \(1947\)](#)
3. [INVESTIGATE: Rights in Conflict: The U.S. Flag and the Pledge of Allegiance](#)
 - 3.1 [ENGAGE: Is Kneeling during the National Anthem an Effective Form of Political Protest?](#)
4. [INVESTIGATE: Rights in Conflict: School Prayer](#)
5. [INVESTIGATE: Rights in Conflict: National Security](#)
6. [INVESTIGATE: Rights in Conflict: Gun Control](#)
 - 6.1 [ENGAGE: What steps should communities and governments take to reduce gun violence?](#)

Standard 5.6a: Supreme Court Decisions: First Amendment Rights

Interpretations of the freedoms of Religion, Assembly, Press, Petition, and Speech under the First Amendment. (Massachusetts Curriculum Framework for History and Social Studies) **[8.T5.6.a.]**



[Freedom of Thought Quote by Benjamin Franklin](#), by [Congressional Quote](#), licensed under [CC BY 2.0](#).

1. INVESTIGATE: First Amendment Rights: Selected Landmark Cases

The [First Amendment](#) of the Constitution states; "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

In its interpretations of the First Amendment, the Supreme Court has produced far-reaching legal decisions, including:

- [***Schenck v. U.S.***](#) (1919)
 - Criticism of the Military Draft is not protected by the First Amendment when that speech poses a clear and present danger to the government.
- [***Abrams v. U.S.***](#) (1919)
 - In this case the defendants were convicted on the basis of two leaflets they printed and threw from windows of a building in New York City. One leaflet, signed "revolutionists," denounced the sending of American troops to Russia. The second leaflet, written in Yiddish, denounced the war and U.S. efforts to impede the Russian Revolution and advocated the cessation of the production of weapons to be used against Soviet Russia.
 - In this case, Justice Oliver Wendell Holmes delivered his famous defense of free speech in [***The Most Powerful Dissent in American History***](#).
- [***Whitney v. California***](#) (1927)
 - States can prohibit speech that may incite criminal activity.
- [***Stromberg v. California***](#) (1931)
 - States cannot infringe on First Amendment right to speech and expression.
- [***Near v. Minnesota***](#) (1931)
 - States cannot prohibit malicious and defamatory content from newspapers.
- [***Brandenburg v. Ohio***](#) (1969)
 - States cannot broadly prohibit speech and expression.
- [***Texas v. Johnson***](#) (1989)
 - Flag burning is a form of protected speech and expression.
- [***Tinker v. Des Moines***](#) (1969)
 - Administrators cannot ban political protest in schools.
 - For more, see [Landmark Ruling on Behalf of Student Expression](#) from the American Civil Liberties Union.
- [***Reno v. ACLU***](#) (1996)
 - Ruled against vague content bans on free speech.
- [***Hazelwood School District v. Kuhlmeier***](#) (1988)
 - High school student newspapers are subject to a lower level of First Amendment Rights.
- [***Olmstead v. LC and EW***](#) (1999)
 - Social services for individuals with disabilities must be provided in the most integrated setting appropriate to the needs of an individual.
- [***Lawrence v. Texas***](#) (2003)
 - Declared unconstitutional a Texas law prohibiting sexual acts between same sex couples, expanding privacy rights of all Americans.
- [***Hamdan v. Rumsfeld***](#) (2006)
 - Imposed legal constraints of the Bush administration's program for trying alleged terrorists by military commissions.
- [***Safford Unified School District v. Redding***](#) (2009)
 - Ruled school officials violated the constitutional rights of a 13-year-old Arizona girl when they conducted a strip search based on a classmate's uncorroborated accusation.
- [***Obergefell v. Hodges***](#) (2015)
 - Supreme Court declares same-sex marriage is legal in all 50 states.
 - See [case overview from the ACLU](#)

Learn more about significant Supreme Court decisions at the [First Amendment Encyclopedia](#) from Middle Tennessee State University and [Supreme Court Decisions on First Amendment Individual Rights](#)

1.1. UNCOVER: *Tinker v. Des Moines* and Student Speech in School

In December 1965, during a period of nationwide protests against the American War in Vietnam, 13-year-old Mary Beth Tinker and a group of her junior high school classmates wore black armbands to school to express their opposition to the war.



[Mary Beth Tinker](#), by [Eli Hiller](#), licenced under [CC BY-SA 2.0](#)

School administrators told the students to remove the armbands and when the students refused, suspended them. When they returned to school after the holiday break, the students gave up the armbands, wore black for the rest of the year in protest, and took the school all the way to the Supreme Court.

In 1969, by a 7 to 2 vote, the Supreme Court agreed with the students, declaring in a memorable phrase that **students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”**

The Court said school officials could not block wearing armbands as a form of constitutionally protected free speech, unless the actions of students had disrupted the educational process—which

they had not. Explore [Tinker v. DesMoines \(1969\) - Landmark Supreme Court Ruling on Behalf of Student Expression](#). Watch a video, [Constitution Hall Pass: Tinker v. Des Moines](#) from the National Constitution Center.

The Tinker case invites a wider **exploration of the boundaries of student speech in school**, as illustrated by a U.S. Court of Appeals decision in [Hawk v. Easton Area School District](#) (2013). In the case, two students wore “I <3 Boobies” (I Heart Boobies) bracelets to school to support a local breast cancer awareness campaign. School administrators banned the bracelets as a violation of the school dress code policy that prohibited lewd or vulgar language on clothing. Citing their right to free speech, the students wore the bracelets anyways, were suspended, and their mothers took the school system to court. The Appeals Court overturned the ban, stating that the bracelets were not plainly lewd and because they commented on a social issue, they may be worn in school.

Learn more at [What Can I Say in School? An Examination of Students' Freedom of Speech](#), National Constitution Center.

Suggested Learning Activities

- **Design a Student Bill of Rights**
 - Review the following resources:
 - [Student Bill of Rights](#), National Youth Rights Association
 - [You Can't Say That in School?!](#) Newseum
 - [11 Rights All Students \(Should\) Have](#)
 - Then create your own student Bill of Rights.
- **Create a Poster**
 - Design a poster (drawing or digital) that summarizes [Student Rights](#) in one or more of the following areas:
 - Speech
 - Privacy
 - Religion
 - Dress Codes
 - Banned Books
 - Drug Testing
- **Create a Public Service Announcement**
 - Design a [public service announcement](#) to advocate for increased student rights in school based on the First Amendment.

Standard 5.6b: Supreme Court Decisions: Due Process and Equal Protection

Interpretations of the due process clause and the equal protection clause of the 14th Amendment.
(Massachusetts Curriculum Framework for History and Social Studies) **[8.T5.6.b.]**



**KAMALA
HARRIS**
UNITED STATES SENATOR

Sylvia Mendez

**ONE OF THE FIRST STUDENTS
OF MEXICAN DESCENT TO
ATTEND AN ALL-WHITE
SCHOOL IN CALIFORNIA**

[Sylvia Mendez](#), by the Office of Senator Kamala Harris and US Department of Agriculture, Public Domain

2. INVESTIGATE: Due Process and Equal Protection: *Mendez v. Westminster* (1947)

Just after the end of World War II, **Sylvia Mendez** was eight years-old and a student at a racially segregated elementary school in Westminster, California. She wanted to attend a nearby school, but it was reserved for white-only students. Her parents (along with four other Mexican-American families) sued the school district on behalf of the community's 5,000 Latino and Latina students. In 1946, the plaintiffs won their case in federal court, making it the **first time in U.S. history that a school district was told it had to desegregate**. Watch here as [Sylvia Mendez recalls the time and the lawsuit](#).

The Mendez case had enormous implications for civil rights in the country. It preceded the *Brown v. Board of Education* school desegregation decision by eight years. Future Supreme Court Justice [Thurgood Marshall](#) represented both Sylvia Mendez and later Linda Brown in the *Brown v. Board of Education* case. He used some of the same arguments from the *Mendez* case to win the Brown decision.

In the *Mendez v. Westminster* case, the judge wrote these words **challenging the “separate but equal” doctrine** established in the *Plessy v. Ferguson* case in 1898:

The equal protection of the laws' pertaining to the public school system in California is not provided by furnishing in separate schools the same technical facilities, textbooks and courses of instruction to children of Mexican ancestry that are available to the other public school children regardless of their ancestry. A paramount requisite in the American system of public education is social equality. It must be open to all children by unified school association regardless of lineage.

A national hero, Sylvia Mendez received a 2010 Presidential Medal of Freedom and in 2018 was awarded the National Hispanic Hero Award. She continues to work for equality and justice for Latinos and all people of color.

Suggested Learning Activities

- **Role-Play & Video Production**
 - Create a video re-enactment of the court case (see [Mendez v. Westminster Re-Enactment](#)).

Online Resources for *Mendez v. Westminster*

- [Sylvia Mendez and the Mendez v Westminster Court Case](#), *resourcesforhistoryteachers* wiki
- [Mendez v. Westminster Text & Lesson Plan](#), Teaching Tolerance
- [Case Summary from Civics Resources for Texas Students & Teachers](#)
- [The Lasting Impact of Mendez v. Westminster in the Struggle for Desegregation](#)
- [Separate is Never Equal](#). Duncan Tonatiuh, 2014. This picture book about the *Mendez v Westminster* case lets youngsters access the story through illustrations and text. Here is the [Educator's Guide to Separate Is Never Equal](#).

Standard 5.6c: Supreme Court Decisions: Rights in Conflict

Interpretations in cases where individual rights and perceived or community or national interest were in conflict. (Massachusetts Curriculum Framework for History and Social Studies) [8.T5.6.c.]

3. INVESTIGATE: Rights in Conflict: United States Flag and the Pledge of Allegiance



[American Flag](#), Public Domain

The 50 stars on the flag represent the 50 states of the United States of America. The blue square is officially known as the "union," as all of the states are bound in union. The 13 stripes represent the original 13 British colonies that declared independence from Great Britain.

Nicknames for the flag include "The Stars and Stripes," "Old Glory," and the "Star Spangled Banner." Betsy Ross is popularly assumed to have created the first flag, but there is little historical evidence to indicate who actually made the first flag ([Five myths about the American flag](#)). In 1916, President Woodrow Wilson signed the law designating June 14 every year as Flag Day.

The picture book [Long May She Wave: The True Story of Caroline Pickersgill and Her Star-Spangled Creation](#) tells the story of two 13-year-olds (one white and one an African American indentured

servant) who along with adults sewed the flag that inspired Francis Scott Key to write the Star-Spangled Banner song.



Students pledging to the flag, 1899

[Pledge of Allegiance, 1899](#) by Frances Benjamin Johnston, Public Domain

The American flag and the National Anthem are highly contentious issues in contemporary American politics. Although the Supreme Court established in [West Virginia State Board of Education v. Barnette](#) (1943) that students cannot be required to recite the pledge of allegiance in schools, all states except California, Hawaii, Iowa, Vermont and Wyoming have a rule that there be a regularly scheduled time to recite the pledge. In Alabama, for example, schools are required to “afford all public K-12 students an opportunity each school day to voluntarily recite the pledge of allegiance to the United States flag” ([Pledge Law: Controlling Protest and Patriotism in Schools](#), *Teaching Tolerance*, May 29, 2019).

Interestingly, [original Pledge](#) was written in 1892 by [Francis Bellamy](#), a Baptist minister and socialist and it did not contain the phrase “under God.” Bellamy sought to revive patriotism by having school children recite a daily pledge to flag and country. The Pledge was formally adopted by Congress in 1942, but the phrase “under God” was added in 1954 at the height of the anti-communist Red Scare (learn more: [The Gripping Sermon That Got ‘Under God’ Added to the Pledge of Allegiance on Flag Day](#), Washington Post).

For many Americans, the national anthem is a time-honored, but increasingly less relevant tradition when played at sporting events and other occasions. Francis Scott Key wrote “The Star-Spangled Banner” in 1814 to commemorate the British shelling of Fort McHenry during the War of 1812. Today, as one sportswriter put it: “Only 8 million people lived in the United States when Key put ink to paper. What we are left with 206 years later is a poem written in 1814, fitted to a music sheet of the late 1700s, approved by Congress as our anthem in 1931, played routinely at sporting events now for some 350 million Americans to embrace as their hail to country. Clearly, not all of us are able to get our arms around it” (Dupont, 2020).

Often omitted in discussions about the flag and the anthem are how flags have been used as symbols for political change throughout United States history:

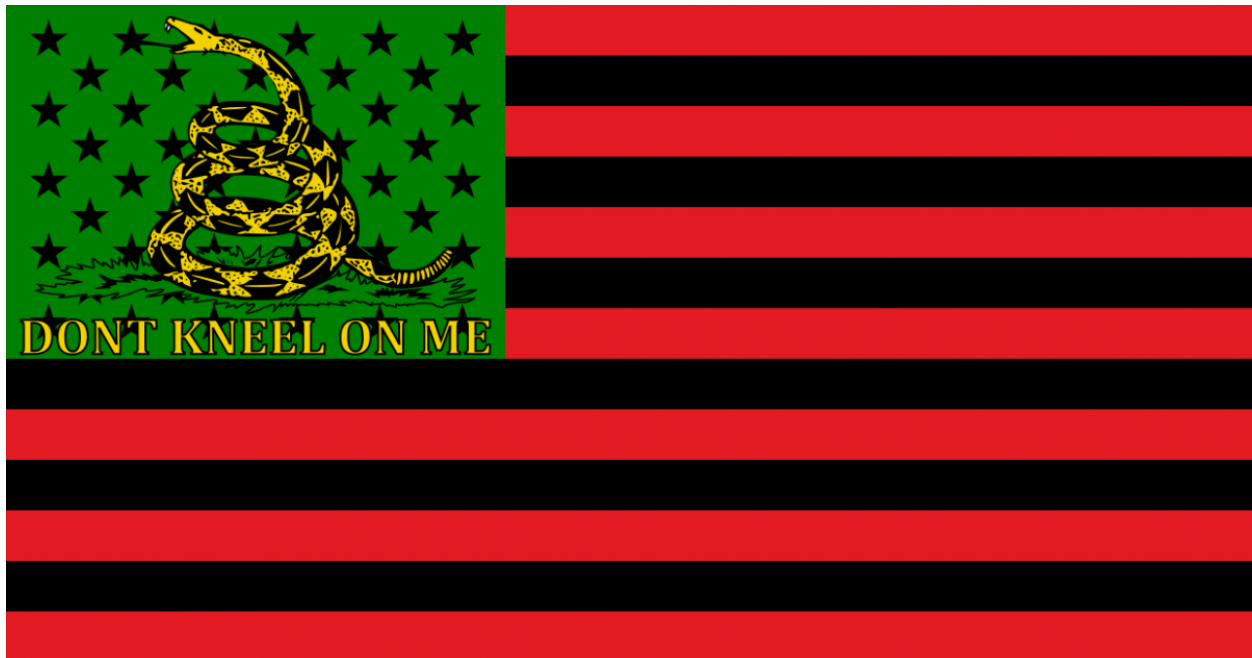
- The **Rainbow flag** is the symbol of LGBTQIA rights ([Who Made the Rainbow Flag?](#));
- The **Juneteenth flag** commemorates June 19, 1865, the day slaves in Texas learned they were free;
- The **National Women's Suffrage Congressional Union flag** was created by Alice Paul and Lucy Burns to support more aggressive protests for women's rights; and
- The **United Farm Workers Black Eagle Flag** became a banner for Latino and Latina rights, heritage, and culture.

Suggested Learning Activities

- **State Your View:** What does a flag, monument, or memorial mean as a national symbol?
 - Explore the *resourcesforhistoryteachers* wiki page [National Symbols, Flags, Phrases and Songs](#)
 - EDSITEment article [Stars and Stripes Forever: Flag Facts for Flag Day](#)
 - What does the American flag mean to you?
- **Design a Flag, Monument, or Memorial for a Cause or an Issue You Care About**
 - What would your flag mean to the groups it was created for?
- **Analyze Song Lyrics about the Flag**
 - Go to the [Patriotic Melodies Collection](#) from the Library of Congress to access songs about America and the flag
 - How is America and the flag represented in these songs? What emotions are the songs seeking to inspire in listeners? ([Flag Day Learning Plan from the National Council of Teachers of English](#))
 - Write Your Own Song to Inspire Change

3.1. ENGAGE: Is Kneeling During the National Anthem an Effective Form of Political Protest?

In the days that followed the killing of George Floyd by Minneapolis, Minnesota police officers on May 25, 2020, hundreds of thousands of Americans marched and kneeled to speak out against police brutality and systematic racism. As Black Lives Matter protests continued throughout the early summer, the National Football League reversed course and announced it supported players "taking a knee" during the national anthem. Professional and amateur athletes, entertainers, politicians and everyday citizens also began kneeling at many different public events. These actions prompted immediate opposition from President Donald Trump and his political supporters who sought to portray kneeling as disrespecting the American flag.



["DONT KNEEL ON ME"](#) by Stateriotismx is licensed under [CC0 1.0](#)

Political protests by millions of marchers and professional athletes has raised questions about whether public school students can be required to recite the pledge of allegiance, salute the flag, or remaining standing (not sitting or kneeling) during the national anthem.

Based on the law as it stands today,

- Students who refuse to stand for the Flag Salute or the National Anthem to make a political statement or because of religious beliefs **ARE exercising their rights of free expression** (learn more [Flag Salute - Rights of Students and Schools](#)).
- Students **CANNOT** be punished for kneeling, sitting, or taking other actions during the National Anthem as long as their actions do not substantially impact the operation of the school (see: [Students Not Required to Participate in the Pledge of Allegiance](#), ACLU Oregon).

Recalling the history of protest, the flag and the national anthem is important to understanding these issues. Kneeling is a powerful form of symbolic political speech, and as journalism professor [Stephen D. Solomon \(2016\)](#) has noted, it is part of a long tradition of symbolic political speech that goes back to the American Revolutionary era's use of effigies, pamphlets, songs, cartoons, and liberty trees to express opposition to the British control over the colonies.

The recent history of kneeling as a form of political protest during the national anthem began August 2016 when San Francisco 49ers quarterback **Colin Kaepernick chose to kneel rather than stand during the national anthem** before a football game. He was demonstrating against discrimination and oppression against African Americans and other minorities ([Colin Kaepernick protests anthem over treatment of minorities](#)).

Kaepernick is part of a long history of athletes speaking out about social issues, including Jackie Robinson, Althea Gibson, Jim Brown, Bill Russell and Muhammad Ali ([Wulf, 2019](#); Wiggins, 2018). In recent years, players from the NBA, WNBA, NFL and other sports league have engaged in protests

including wearing politically-themed shirts during warm-ups and expressing their views on social media platforms. The [Players Coalition](#), founded in 2017 by former pro football players Anquan Bolden and Malcolm Jenkins, seeks reform in the areas of police and community relations, criminal justice reform and education, and economic advancement for poor people. In June 2020, NBA superstar LeBron James along with other Black athletes and entertainers formed More Than A Vote, an organization intended to promote and protect voting rights in the United States. All those athletes are continuing a long tradition of activism by athletes.

Not every sports organization or league welcomes political activism by athletes. In advance of the 2020 Olympic Games in Tokyo, the International Olympic Committee issued a [ban on political protests](#) at Olympic sites. While athletes are allowed to make statements during press conferences, media appearances, and on digital and traditional media platforms, during events or medal ceremonies, they cannot display any political messaging (including signs or armbands), make gestures of a political nature (like kneeling), and refuse to follow the Ceremonies protocol ([IOC Athletes' Commission, 2020](#)).

A famous political protest during the Olympics came at the 1968 Mexico City games by American sprinters Tommie Smith and John Carlos who went barefoot on the podium, bowing their heads during the playing of the national anthem while raising a fist with a black glove (see [Olympic Athletes Who Took a Stand](#) by Smithsonian Magazine). For their actions, both runners were stripped of their medals, suspended from the team, and banned from the Olympic Village.

It took 51 years, but Smith and Carlos were inducted into the U.S. Olympic and Paralympic Hall of Fame in 2019. The official induction citation states Smith and Carlos “courageously” stood up for racial equality ([Fung, 2019](#)).



[Political Protest by Tommie Smith and John Carlos at the 1968 Mexico City Olympic Games](#), Public Domain

Suggested Learning Activities

- **State Your View:** Is sitting or kneeling during the national anthem an effective form of political protest?
 - What are the positives and what are the drawbacks of these actions?
 - [Refusing to Stand for the National Anthem: Top 3 Pros and Cons](#), ProCon.org
 - [Taking a Knee: The Rights of Students to Peaceful Protest](#), ACLU Oregon
 - [#TakeaKnee: Guidance for Principals on Free Speech at Athletic or Other School Events](#), Association of Wisconsin School Administrators
 - Does sitting or kneeling for the National Anthem materially and substantially interfere with the operations of a school?
 - The [Tinker v. Des Moines Independent Community School District](#) case established that schools may limit student expression only if it [materially and substantially interferes](#) with the operations of the school.
- **Compare and Contrast Protest Policies**
 - What are the policies about political protests for the National Football League, the National Basketball Association & Women's National Basketball Association, Major League Baseball, National Hockey League, NASCAR, National Collegiate Athletic Association, U.S. Soccer Federation, and Major League Soccer?
 - [How National Anthem Rules Differ Across Sports Leagues](#), ESPN, May 2018
 - Write a draft Protest Policy for your school.
- **Analyze a Primary Source:** "[Lift Every Voice and Sing](#)"
 - Listen to gospel and hip hop versions of this poem/song by [James Weldon Johnson](#) was performed for the first time on Abraham Lincoln's birthday in 1900.
 - Why is this called the "Black National Anthem?"
 - How does the song express values of freedom, justice and equality?

Online Resources for the Flag-Related Court Cases

- **Key Supreme Court Cases about the Flag Salute**
 - [Minersville School District v. Gollits \(1940\)](#)
 - In its first decision on the flag salute, the Court said in an 8 to 1 decision that it is in the interest of national unity to allow school boards to require students to salute the flag.
 - [Texas v. Johnson \(1989\)](#)
 - Court held 5 to 4 that an individual has a right to burn the flag under the First Amendment free expression clause.
 - [West Virginia State Board of Education v. Barnette \(1943\)](#)
 - In a landmark case, the Court reversed its earlier opinion and held 6 to 3 that students are protected from having to salute the flag or recite the Pledge of Allegiance through the free exercise clause of the First Amendment. The Court stated "compulsory unification of opinion" is antithetical to First Amendment values.
 - In a famous statement, the Court wrote: "If there is any fixed star in our constitutional constellation, it is that no official high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or

force citizens to confess by word or act their faith therein.”

- **Standing and Reciting the Pledge**

- [The Supreme Court on the Pledge](#) from Rethinking Schools.
- [5 Facts about the Pledge of Allegiance](#) from the Pew Research Center (September 4, 2013)
- [Flag Statute - Rights of Students and Schools](#)

4. INVESTIGATE: Rights in Conflict: School Prayer

In the case, [Engel v. Vitale \(1962\)](#), the Supreme Court ruled that requiring prayer in public schools at the start of the day was a violation of the First Amendment’s establishment clause that prohibits the interconnection of church and state. The state cannot hold prayers in public schools, the Court said, even if participation is not required and the prayer is not tied to a particular religion. Read a [summary of the case from PBS American Experience](#).



Students Recite Lord’s Prayer in 1963
Source: Laister / Stringer

Religion has always been an area of dispute in United States history. But the founders, and Thomas Jefferson in particular, intended to establish freedom of religion as a core principle of American life and that a **wall of separation** would exist between religion and government. In 1802, Jefferson wrote: “I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church & State” ([Letters between Thomas Jefferson and the Danbury Baptists](#)).

While debates over school prayer and religion in schools continue today, religion’s place in United States society has changed quite significantly. While 70% of Americans identify as Christian, nearly

one in four adults say they are not affiliated with any religion, while another 5% are members of non-Christian faiths ([Religious Landscape Study](#), Pew Research Center, 2020).

Suggested Learning Activity

- **Research & Present**

- Select one of the Supreme Court Cases regarding prayer in education from [Religious Liberty: Landmark Supreme Court Cases](#).
- Research and examine how the Supreme Court decision made a significant change in citizens' lives.
- Create a presentation, video, or podcast that informs others about the key discussions and decisions regarding the Court case you selected.

Online Resources for School Prayer and Religion Court Cases

- [The Establishment Clause and the Wall of Separation](#), The First Amendment Encyclopedia
- [Introduction to the Establishment Clause](#)
- [The Establishment Clause and the Schools: A Legal Bulletin](#), ACLU
- [The Two Religion Clauses](#), from Teaching American History.org reviews the religion debates of the First Congress

5. INVESTIGATE: Rights in Conflict: National Security

The U.S. Naval Station at **Guantanamo Bay**, Cuba (widely known as “Gitmo”) was established in 1903 after an American invasion of the island during the Spanish-American War. The land for the base was granted to the United States by the Cuban Constitution of 1902.

For most of the 20th century, the naval base served as a coaling station, a ship repair facility, a launching point for supplies during World War II, and a hurricane relief distribution center. Following the September 11, 2001 attacks on the World Trade Center and the Pentagon, the base **became a prison for suspected terrorists** (Schwab, 2009).



[Camp Delta](#) (holding facility for detainees held at Naval Base Guantanamo Bay, Cuba), Public Domain

Since 2001, **some 780 men from 35 countries have been held at the base**. President Barack Obama ordered the detention facilities closed in 2009, although 40 individuals still remain detained at the site (see [40 Current Detainees: The Guantanamo Docket](#)).

In ordering the closure of the prison, President Obama stated that conditions and practices there were “contrary to our values” ([Remarks by the President on Plan to Close the Prison at Guantanamo Bay](#), February 23, 2016, para. 3). Reporters documented exceedingly harsh enhanced interrogation techniques used there, including solitary confinement, physical mistreatment, and other human rights violations. Detainees have not been afforded constitutional rights to fair trials under the military commission system used at the base.

Defenders of practices at the facility cite threats to the nation posed by terrorists, asserting that in times of war or national emergency, some rights and liberties for individuals must be suspended to protect the larger national interests.

Suggested Learning Activity

- **State Your View**
 - Discuss & Debate: Should terrorism suspects have the same civil rights and civil liberties as American citizens?
 - [Debate Which Civil Liberties Should Be Provided to Those in Prison at Guantanamo](#), from PBS
 - [Guantanamo Bay at 10: A Debate about Military Detention](#), Morningside Center for Teaching Social Responsibility

6. INVESTIGATE: Rights in Conflict: Gun Control

Gun Control laws are one of the most bitterly contested issues in the United States today. The statistics related to guns, gun violence, and mass shootings are stark. Americans own nearly half of all the guns in the world.

There are 33,000 gun deaths every year, of which two-thirds are suicides. 85% of suicide victims are males. The remaining gun deaths are homicides (assaults by people and shootings by police officers). In two-thirds of these cases, the victims are young black males. You can explore the data using an [Interactive Graphic of Gun Death in America](#).



Current Flag of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Image on [Wikimedia Commons/Public Domain](#)

The United States is experiencing an alarming number of mass shootings. As of 2019, there have been 114 mass shootings in the past four decades and most of the shooters got the guns they used legally ([Follman, Aronsen & Pan, 2019a](#)). Of the guns used in these shootings, 48 would have been outlawed if there had been a national ban on assault weapons ([Follman, Aronsen & Pan, 2019b](#)).

People across the country are divided as to how to preserve the rights of gun owners while curbing access to rifles, revolvers, shotguns, semi-automatic handguns, assault rifles, and other weapons of war.

Suggested Learning Activities

- **Evaluate Both Sides**

- Review the Second Amendment Court Cases:
 - [How the Court Has Historically Ruled on Gun Control](#)
 - [Supreme Court Cases on the Right to Keep and Bear Arms](#)
 - [District of Columbia v. Heller](#) (2008)
 - Court in a 5 to 4 vote upheld the right of individuals to own guns under the Second Amendment, finding the District of Columbia's ban on owning handguns unconstitutional.
 - [Caetano v. Massachusetts](#) (2016)
 - Supreme Court case in which the Court unanimously vacated (overturned) a Massachusetts conviction of a woman who carried a stun gun for self-defense.
 - [McDonald v. City of Chicago](#) (2010)
 - Supreme Court case that found that the right of an individual to "keep and bear arms" is incorporated by the Due Process Clause of the Fourteenth Amendment against the states.
- Discuss & Debate: Does the Second Amendment establish a collective right for armed groups or an individual right for people to possess firearms?
 - [Second Amendment Speech](#) by a former Green Beret.
 - [Second Amendment TED Talk](#) by William Harwood

Online Resources for Gun Control Laws and Second Amendment Court Cases

- [Machine Guns & 50 Caliber](#), from Giffords Law Center
- [Question After Orlando: Are Assault Rifles Banned? No, Only Fully Automatic are Basically Prohibited](#), Politifact (June 20, 2016)
- [145 CEOs Call on Senate to Pass 'Common-Sense, Bipartisan' Gun Laws](#), NPR (September 12, 2019) (Includes text of the letter sent to the Senate)
- **Second Amendment Sanctuary Resolutions**
 - [The Right's Latest Tactic on Gun Laws? Just Don't Enforce Them](#). *Rolling Stone* (May 28, 2019)
 - [Text of Proposed Logan County \(Colorado\) Second Amendment Sanctuary Resolution](#) (2019)

6.1. ENGAGE: What Steps Should Communities and Governments Take to Reduce Gun Violence?

Assault weapons bans, universal background checks for all gun purchases, red flag laws (or extreme risk protection orders), gun buyback programs, and mandatory waiting periods are among the current proposals for reducing gun violence in the United States. Each has generated strenuous debate between proponents and opponents.

The [National Firearms Act of 1934](#) was the country's first national gun control legislation. It regulated fully automatic weapons, suppressors, short-barreled rifles and shotguns, and destructive devices such as bombs or grenades. Since 1934, there has been the following legislation:

- Federal Firearms Act of 1938
- Gun Control Act of 1968
- Firearms Owners' Protection Act of 1986
- Brady Handgun Violence Prevention Act of 1993
- Federal Assault Weapons Ban of 1994 (expired 2004)
- Protection of Lawful Commerce in Arms and Child Safety Lock Act (2005)
- National Instant Criminal Background Check System Improvement Amendments Act (2007)

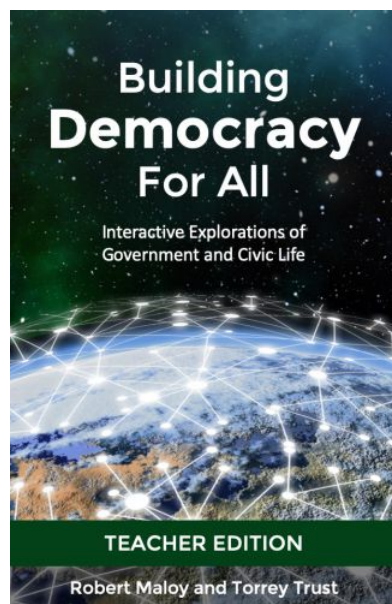
Learn more about these acts from the [Federal Acts Regulating Firearms](#) article by the Giffords Law Center.

Suggested Learning Activity

- **Propose Public Policy Action**
 - What laws and policies should communities and governments enact to reduce gun violence?
 - What are current proposals for reducing gun violence?

Standard 5.6 Conclusion

Significant Supreme Court decisions known as landmark cases make huge changes in people's lives, expanding their protections and freedoms under the law. **INVESTIGATE** looked at cases where the Court changed its interpretations of a) First Amendment freedoms; b) the due process and equal protection clauses of the 14th Amendment; and c) cases involving the Pledge of Allegiance, school prayer, national security, and gun control where the rights of individuals may clash with the needs of larger society. **UNCOVER** reviewed the impact of the *Tinker v. Des Moines* decision in light of the larger topic of student rights in schools. **ENGAGE** asked whether students have a right to sit during the Pledge of Allegiance or kneel during the National Anthem and asked what steps communities can take to end gun violence.



Maloy, R. W. & Trust, T. (2020). *Building Democracy for All*. EdTech Books. Retrieved from <https://edtechbooks.org/democracy>



CC BY-NC-SA: This work is released under a CC BY-NC-SA license, which means that you are free to do with it as you please as long as you (1) properly attribute it, (2) do not use it for commercial gain, and (3) share any subsequent works under the same or a similar license.