



A Teacher-Directed Website

C-SPAN CLASSROOM DELIBERATIONS



FCC v Fox Lesson Plan

Can the government ban indecency on TV?

note: you can make a copy of this and other handouts as Google Doc or download it as a Word doc so you can save and edit it to fit your needs. Go to the "File" dropdown menu above.

Overview: This lesson plan provides guidance for teachers to conduct a moot Supreme Court hearing of the FCC v Fox case. Teachers wanting to discuss the case in less depth can pick and choose from the introductory activities without conducting the moot court.

This case presents an engaging Constitutional issue for classroom deliberation. The focus of the lesson is for students to evaluate the arguments on both sides of the case to understand the Constitutional issues involved. Carefully selected C-SPAN video clips are supplemented with articles on high, medium, and low reading levels. The lesson plan culminates with a moot Supreme Court hearing, in which students participate as attorneys, judges, and journalists. Additional resources for further analysis are provided at bottom of the web page.

Objectives:

- Students will understand how the First Amendment is interpreted by the Supreme Court.
- Students will evaluate the arguments for and against regulation of indecency on broadcast television.
- Students will participate in a moot court case.
- Students will develop and defend a position on whether the government can constitutionally ban indecency on broadcast television.

Essential Question:

- Can the government ban indecency on TV without violating the First Amendment?

Timing:

- A full analysis of this issue will take **about four class periods of about an hour each**. See the "Full Procedure," below.
- **If you have only one class period**, start with the [note-taking handout](#), then watch the [background video](#) (2 minutes) and reading. Do the "[Take a Stand](#)" activity using the essential question "*Can the government ban indecency on TV without violating the First Amendment?*". Explore both sides of the issue by watching the clips for each side on [C-SPAN Classroom Deliberations](#), while students take notes in the [note-taking chart](#). Conclude with a final "Take a Stand" activity so students can change their position from where they stood at the beginning of class based on what they learned in the lesson.

Full Procedure:

1. **Warmup/Preview:** Give students the [note-taking handout](#) or give them access to it online (they can save a copy of the Google Doc to take notes electronically) and have them **complete questions #1-3** to prepare them for the Take a Stand activity, below.

2. **Take a Stand:** Lead students through a “[Take a Stand](#)” activity to assess their background knowledge and opinions before learning more about the case. The question used throughout this lesson plan is “Can the government ban indecency on TV?” This is a simplified version of the question the Supreme Court deliberated in this case. If your students have more background knowledge and you want to ask a more accurate version of the question the court considered, use “Are federal laws regulating indecency on broadcast television constitutional?”

Ask students for their answers and tell them that they’re going to learn much more about it, so it’s OK if they don’t have a strong position at this point. They’ll do another “Take a Stand” activity after learning the arguments on both sides.

3. **Building background knowledge:** Watch the [background video](#) from C-SPAN’s Washington Journal and read the background articles to introduce students to the details of the case. Students should take notes to build their background knowledge about the case. Pause and discuss as necessary. Make sure that students understand the current FCC regulations, the difference between broadcast and cable/satellite TV, the meaning of the First Amendment’s protection of free speech and press, and the specific violations of FCC regulations at issue in this case.

- [Background reading](#) from USA Today (lowest reading level)
- [Background Reading](#) from the Washington Post (medium reading level)
- [Background Reading](#) from the First Amendment Center (highest reading level)

4. **Explore opposing viewpoints:** Watch the videos and read the articles on both sides of the issue. Have students take notes in the [note-taking chart](#).

If you have time, or if a student finishes reading and note-taking quickly, explore the additional web resources at the bottom of the page.

5. **Moot Court:** After students have read and taken notes on the articles, conduct a moot Supreme Court hearing on the case. Street Law’s Landmark Cases lesson plans were the inspiration for the structure of this approach to moot court; much additional information about conducting moot courts, and about the First Amendment, can be found on [their website](#).

Our recommended approach for conducting a moot court is as follows:

- a. Show students a clip of what a Supreme Court argument looks like. Since the Supreme Court does not allow cameras, [here is a clip](#) from the movie Gideon’s Trumpet.
- b. Give students the [moot court outline](#). Explain that this is a guideline to help them write a persuasive argument to support one side of the FCC v Fox case. The formal language used in Supreme Court hearings is provided to help students write in that style.
- c. Students write a formal argument, using the outline, for the FCC. Then, the next class period or for homework, write the argument for Fox. By writing both sides of the case,

students understand both sides and can participate effectively in the moot court. For more depth and detail, have students research precedents related to this case. Some related cases include the following; [this outline](#) and [chart](#) may help students organize their notes about precedent cases. Students can read about one of the following precedents and complete the entire precedent outline for it, then share the key points with others in a jigsaw group activity, during which all students complete the precedent chart so they know the basics of all four cases.

- a. [Brown v EMA](#), 2010 (the Supreme Court ruled that California cannot ban the sale of violent video games to children without violating the First Amendment)
 - b. [FCC v Fox, 2009](#) (this is essentially the same case as the one presented in this lesson plan, but the Court limited its decision to whether the FCC had acted arbitrarily when it banned "fleeting expletives" from broadcast TV. The Court did not rule on the First Amendment issues in general, which is why the case returned to the Court this year.)
 - c. [FCC v Pacifica](#), 1978 (the Court upheld the FCC's power to fine radio stations who violate indecency rules during daytime hours; this case was referred to repeatedly in the FCC v Fox this year)
 - d. [Miller v California](#), 1973 (the landmark case on obscenity, in which the court ruled that obscenity is not protected by the First Amendment, and established a three-part test to define obscene material)
- d. On the day of the moot court, require students to come prepared with both arguments written. This is their "ticket" to participate in the moot court.
 - e. Randomly select students to be judges and attorneys representing Fox and the FCC. Select an odd number of judges to their is no tie vote.
 - f. Conduct the moot court. The team representing the FCC should start with their argument in about 5 minutes, including questions from the judges. Then Fox has the same amount of time to present its argument and answer judges' questions. Finally, the FCC has an opportunity to rebut anything said during Fox's argument. The judges then deliberate and vote, and explain their ruling and precedent to the class.

7. Do a final [Take a Stand](#) activity to see how students' positions have changed after learning.