

## AMENDMENT ADVANTAGE

**Do I have a right?** Sure! You've got many, and they're found in the amendments, or additions, to the U.S. Constitution. This handy guide will help you navigate all the rights you'll find in our game. Check it out!



### Freedom of Expression

You have the right to communicate and express ideas and opinions—to the government, in the press, and in public, even when your thoughts are controversial or unpopular.



### Freedom of Religion

The Constitution protects your right to practice any religion you choose—or no religion at all. It also says that the government can't establish a religion or prefer one faith over another.



### Freedom of Assembly

You have the right to gather peacefully with others.



### Own Weapons

You have the right to keep and bear weapons.

### Not House Soldiers

The government cannot force you to let soldiers into your home or onto your property. It's up to you to decide who you let inside your house!



### No Unreasonable Searches

If the police want to search you or your stuff—or take your things—they need a good reason to suspect they'll find evidence of a crime.

### Valid Warrant

If the police have a warrant to search or take your stuff, the warrant must show the reason they think your things should be searched or taken. It must also describe exactly where they want to search or what they want to take.



### No Double Jeopardy

Once you've been found guilty or innocent, you cannot be put on trial or punished for that same crime again.



### Not Testify Against Self

You can't be forced to testify against yourself, either by the police or in court. You have the right to remain silent!



### Keep Private Property

The government is only allowed to take away your land if the land will be used for a public purpose. And if they do take your land, the government has to give you a fair price for it.



### Due Process

If you're involved in a criminal case, the government can't take your life, liberty, or property without due process of law. That means a fair legal proceeding!

# Amendment Guide

Name: \_\_\_\_\_

6



## Impartial Jury

If you are on trial for a crime, you have a right to a fair and impartial jury.

6



## Representation Right

If you've been accused of a crime, you have the right to a lawyer—even if you can't afford one!

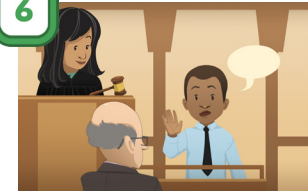
6



## Speedy and Public Trial

If you've been accused of a crime, you have a right to know the charges against you. After that, the government can't keep you waiting forever—or hold your trial in secret! You have the right to a speedy and public trial.

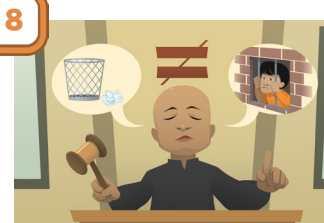
6



## Witness Must Testify

If you've been accused of a crime, you have the right to question the witnesses against you. And if a witness can help your case, you have the right to make that witness testify—even if they don't want to!

8



## No Cruel and Unusual Punishment

If you are guilty of a crime, the judge is not allowed to sentence you to any cruel or unusual punishments. The punishment has to fit the crime; it's your constitutional right!

8



## Reasonable Bail and Fines

The government can't charge an unreasonable amount of money to bail you out of jail. Or if your punishment is a fine, the fine can't be excessive. The bail or fine must fit the crime!

13



## No Slavery

Slavery cannot exist and people can't own or buy or sell other people. This is one of the only constitutional rights that protects against people who are not the government—but only if they are enslaving you!

14



## Equality Under the Law

Everyone—no matter what you look like, how much money you have, or how popular you are—should be treated equally under the law.

15



## Vote Regardless of Race

No matter your race or ethnicity, as a citizen you have the right to vote. So do it!

## Vote Regardless of Sex

Women and men have equal rights to an equal vote in all public elections.

19



26



## Vote at Age 18

Once you turn eighteen, the Constitution guarantees you the right to vote. So start thinking about who you want to vote for!

### Marbury v. Madison (1803)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
William Marbury was appointed a Justice of the Peace by John Adams in his last hours as president. James Madison, Secretary of State for the new president, Jefferson, refused to deliver Marbury's commission. Using the Judiciary Act of 1789, which says the courts can force officials to fulfill their duties, Marbury sued for his job.	<p><i>Does Marbury hold a right to his appointment? Can he sue for it? Does the Supreme Court have the power to order the commission be delivered?</i></p> <p>Marbury: Madison was a public servant and bound to perform his duty to deliver the commission.</p> <p>Madison: Forcing the delivery of the commission was purely political and not the responsibility of the Supreme Court to enforce.</p>	4-0. Yes. Yes. No. Marbury's appointment was legal and he could sue for it. But, Section 13 of the Judiciary Act violates Article III of the Constitution which limits the types of cases the Supreme Court can hear. Because he used Section 13 to sue, the Court cannot force his appointment to be carried out.	This case determined that the Court's job included interpreting the constitutionality of laws passed by Congress (the power of judicial review).

### Plessy v. Ferguson (1896)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
In 1890, Louisiana passed a law requiring railroad companies to transport blacks and whites in separate cars. In 1892, Homer Plessy, who was 1/8th black, challenged the law. He sat in the "whites only" section, was arrested and convicted. Plessy appealed his case, which was decided by Judge John Ferguson.	<p><i>Does the segregation law violate Plessy's 14th Amendment right to equal protection?</i></p> <p>Plessy: The only purpose of segregation is to keep black people inferior. Having separate cars is not equal treatment.</p> <p>Ferguson: There's equal opportunity to ride the train. The 14th Amendment doesn't require social equality. Separation doesn't create inferiority.</p>	7-1. No. Separate cars met the legal requirement for "equal protection." Black people weren't barred from riding the train. The 14th Amendment doesn't require social equality and separation didn't convey inferiority. If people felt inferior, it was because they chose to feel that way. Laws can't make someone feel inferior.	SVF. FOS. DS. Students will need to know states made the segregation laws. The inferiority argument is key in <i>Brown</i> which overturns this.

### Brown v. Board of Education of Topeka (1954)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
Kansas had separate schools for black and white students. In 1951, Linda Brown tried to enroll in a "white school" and was denied. She sued. Her case, combined with several others, appealed to the Supreme Court.	<p><i>Do racially segregated public schools violate the 14th Amendment's equal protection rights?</i></p> <p>Brown: Black schools are not equal in intangibles like the quality of the faculty, alumni network, etc. Segregation sends a message of inferiority.</p> <p>Board: Black students aren't denied education. As seen in <i>Plessy</i>, the law doesn't require social equity. Laws can't make a person feel inferior.</p>	9-0. Yes. Segregated schools were inherently unequal in all aspects. Segregation taught students to feel inferior (as supported by the Clark doll test) which has a detrimental effect on students' education and personal growth.	ED. DS. FOS. Students will need to know that segregation laws were made by the states, the Clark Doll test, and the <i>Plessy</i> decision.



### Gideon v. Wainwright (1963)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
Clarence Gideon was charged with a felony in Florida. At trial, he asked for an attorney because he couldn't afford one. The judge denied him because Florida only appointed attorneys for capital crimes. Gideon defended himself and was found guilty. He sued Louie Wainwright, director of Florida's Division of Corrections.	<p><i>Does the 6th Amendment's right to a lawyer in criminal cases extend to felony defendants in state courts?</i></p> <p>Gideon: No defendant can provide an adequate self-defense. The Constitution ensures legal council to all defendants charged with felonies.</p> <p>Wainwright: A lawyer is not a fundamental right nor essential for a fair trial.</p>	Yes. 9-0. A fair criminal trial requires that the defendant be given a lawyer. The 6th Amendment requires legal representation in court and the due process clause of the 14th amendment requires states to uphold those rights in every state.	SVF. FOS. This case allows students to discuss how wealth inequality effects people in the judicial system.

### Miranda v. Arizona (1966)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
In 1963, Ernesto Miranda was arrested on charges of kidnapping and rape. He was brought to the police station, isolated in a room, and questioned for two hours. He was not told of his right to an attorney. After the interrogation, Miranda signed a written confession which was used at trial to convict him.	<p><i>Does the 5th Amendment protection against self-incrimination apply to police interrogations?</i></p> <p>Miranda: The 5th Amendment says police can't force a confession. Force includes psychological intimidation such as isolation.</p> <p>Arizona: Force means physical violence, which he didn't receive. Citizens should know their rights and police should not have to inform them.</p>	5-4. Yes. The right protecting against self-incrimination is fundamental to our justice system. Only statements made freely by suspects can be used in court. Psychological intimidation can be a form of force. Police must follow a procedure to ensure defendants are aware of their rights prior to interrogation.	Students are familiar with the Miranda warning from TV. This can be used to show how the Court's decisions can directly impact people's lives.

### In re Gault (1967)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
Gerald Gault, 15, was arrested by Arizona police on suspicion of making an obscene phone call. The police did not notify his parents. At his initial and secondary hearings, no witnesses testified, and Gault was questioned by the judge without it being recorded. Gault was sentenced to six years in juvenile detention.	<p><i>Does the due process clause of the 14th Amendment apply to juvenile defendants?</i></p> <p>Arizona: Gault admitted his guilt to the judge. His parents did not request legal aid.</p> <p>Gault: Due process was denied when Gault's parents weren't notified of the arrest and legal aid was not made available. The judge followed no guidelines for the sentencing.</p>	8-1. Yes. Juveniles are protected by the 14th Amendment. Gault's due process rights had been violated when he was denied the right to a lawyer, had not been informed of his right against self-incrimination, had no chance to confront his accusers, and had not been given a right to appeal his case.	FOS. Each state has different rules for how juvenile cases are handled, but this case forced all to follow due process. Good for discussing rights of minors.

### Tinker v. Des Moines Independent Community School District (1969)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
Students planned to wear armbands to school to protest the Vietnam War. Principals, fearing this would disrupt learning, created a rule stating that anyone with an armband had to remove it or be suspended. Students wore the armbands and were suspended.	<p><i>Did the suspensions violate students' First Amendment rights to free speech?</i></p> <p>Tinker: The armbands were symbolic speech and students have free speech in school. It was a silent protest and didn't distract from learning.</p> <p>Des Moines: Free speech doesn't extend to schools. Schools decide what's best for their students. The armbands could disrupt learning.</p>	7-2. Yes. The armbands were a form of symbolic speech and cannot be restricted. The school can only restrict speech if they can prove the conduct in question would significantly interfere with learning. The principals' <u>fear</u> of disruption was not the same as <u>actual</u> disruption of learning.	ED. This case can be compared with <i>Fraser</i> and <i>Kuhlmeier</i> to examine the power of school officials.

### U.S. v. Nixon (1974)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
In 1972, burglars were caught breaking into the Democratic Party headquarters. President Nixon (R) denied having any tie to the break-in. A Congressional investigation found there were audio tapes of Nixon discussing the break-in and asked for the tapes. Nixon refused to release them, citing executive privilege.	<p><i>Are all of the president's communications confidential and immune from judicial review?</i></p> <p>U.S.: Executive privilege is not absolute. This communication is evidence in a criminal trial.</p> <p>Nixon: Confidentiality of communication is necessary to run the country. The President is entitled to absolute executive privilege.</p>	8-0. No. The Executive branch is not immune from the Judicial branch. The president can protect communication where national security is concerned, but this case doesn't meet that criteria. No president is above the law. Nixon must hand over the tapes.	This case can be tied to discussions of the rule of law and executive power. Students may need some background on the Watergate break-in.

### Hazelwood School District v. Kuhlmeier (1988)

Background	Issue & Arguments	Decision & Rationale	Teacher Notes
Two student articles, one on divorce and one on teen pregnancy, were removed from a high school newspaper by the principal just prior to its printing. The students who wrote the articles were not informed. The newspaper was printed and distributed with two blank pages.	<p><i>Were students' First Amendment rights violated when the school censored the articles?</i></p> <p>Hazelwood: As seen in <i>Fraser</i>, schools can censor speech. It's a school-funded paper, and it can't guarantee the anonymity of those interviewed.</p> <p>Kuhlmeier: As seen in <i>Tinker</i>, First Amendment rights extend to the classroom. A newspaper is a form of public expression.</p>	5-3. No. A school can censor speech that is inconsistent with the school's mission. The speech was in a school sponsored newspaper, so school officials could censor it. The principal could have concluded the articles were inappropriate for the audience or that the identities of those in the articles couldn't be protected.	ED. The case shows how precedent cases ( <i>Tinker</i> and <i>Fraser</i> ) were used to argue both sides.

## District of Columbia v. Heller (2008)

### Background

A District of Columbia statute made it illegal to carry an unregistered firearm. Handguns required one-year licenses and were to be locked or unloaded when at home. Dick Anthony Heller was a police officer who applied for a handgun license for personal use at home. He was denied, so he sued the city.

### Issue & Arguments

*Do the law's restrictions on gun ownership violate Heller's 2nd Amendment rights?*

D.C.: The 2nd Amendment says gun ownership is for militia service. The law didn't ban guns, and it is a reasonable way to prevent crime.

Heller: The 2nd Amendment implies that gun ownership for self-defense is a right. The law makes self-defense at home impossible.

### Decision & Rationale

5-4. Yes. The 2nd Amendment doesn't limit arms to military purposes. It states gun ownership is an individual's right that can't be taken away, which means owning a gun can be regulated but self-defense is "inherent" in the right. Laws requiring inoperable guns at home violate the right of self-defense.

### Teacher Notes

This can be used to show how specific language within an amendment is interpreted and applied to a modern issue.