

**Document-Based Analysis:
Writing to Read Democracy in New York State & These United States
Activity Sequence Instructor Guide**

NYS Next Generation Learning Standards

**Relevant standards noted for each activity.

Reading Standards for Literacy in History/Social Studies 6-12

Writing Standards for Literacy in History/Social Studies, Science and Technical Subjects 6-12

Speaking and Listening Standards 11-12

NYS Social Studies Framework

Grades 7-8: History of the United States and New York State

Grade 11: United States History and Government

Grade 12: Participation in Government and Civics

Overview of Documents:

Document A: *Freedom of Expression in the NYS Constitution* (Article 1, Sections 3 and 8, NYS Constitution)

Document B: *The First and Fourth Amendments to the US Constitution, 1791*

Case 1: Shield Law

Document C: *New York Civil Rights Law § 79-h (Shield Law), Amended 2019*

Document D: *Memorandum of Governor Nelson A. Rockefeller, “To Amend the Civil Rights Law in Relation to Contempt,” May 12, 1970*

Document E: *Holmes v. Winter, Court of Appeals, NY, 2013*

Document F: *Dissenting Opinion, Smith, J. (Holmes v. Winter, Court of Appeals, NY, 2013)*

Case 2: “Stop and Frisk”

Document G: *Security against unreasonable searches, seizures and interceptions in the New York State Constitution, Section 12*

Document H: *Stops and Searches of Citizens by the NYPD 2012-2015*

Document I: *Racial Distribution of Citizens Stopped by “Stop and Frisk” Policies in New York City, 2013-15*

Case 3: Prison and the Frisk

Document J: *Rivera v. Smith (Court of Appeals, NY, 1984)*

Document K: *Concurring Opinion, Kaye, J. (Rivera v. Smith, Court of Appeals, NY 1984)*

Activity 3: Case Law Jigsaw

Case 1: *Shield Law*

Document C: New York Civil Rights Law § 79-h (Shield Law)

Document D: Memorandum of Governor Nelson A. Rockefeller, "To Amend the Civil Rights Law in Relation to Contempt," May 12, 1970

Document E: *Holmes v. Winter*, Court of Appeals, NY, 2013

Document F: Dissenting Opinion, Smith, J. (*Holmes v. Winter*, Court of Appeals, NY, 2013)

NYS Next Generation Learning Standards for Literacy in History/Social Studies:

Grades 6-8:

- **RH1:** Cite specific textual evidence to support analysis of primary and secondary sources.
- **RH2:** Determine the central ideas or information of a primary or secondary source; provide an accurate, objective summary of the source distinct from prior knowledge or opinions.
- **RH4:** Determine the meaning of words and phrases as they are used in a text, including content-specific vocabulary related to history/social studies.
- **RH8:** Distinguish among fact, opinion, and reasoned judgement in a text. Identify and distinguish between a primary and secondary source on the same topic.
- **RH9:** Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.

Grades 11-12:

- **RH1:** Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the source as a whole.
- **RH2:** Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.
- **RH4:** Interpret words and phrases, including disciplinary language, as they are developed in a text, including determining technical, connotative, and figurative meanings, and analyze how specific word choices shape meaning or tone.
- **RH6:** Evaluate authors' points of view on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.
- **RH8:** Evaluate an author's premises, claims, and evidence by corroborating or challenging them with other information.

Common Core State Standards ELA Speaking & Listening, Grades 11-12:

- **CCSS.ELA-Literacy.SL.11-12.1:** Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.
 - **CCSS.ELA-Literacy.SL.11-12.1.A:** Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.
 - **CCSS.ELA-Literacy.SL.11-12.1.B:** Work with peers to promote civil, democratic discussions and decision-making, set clear goals and deadlines, and establish individual roles as needed.
 - **CCSS.ELA-Literacy.SL.11-12.1.C:** Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

Writing for Transfer: Moving from the *US Constitution* and *NY Constitution* to Case Law [25-30 Minutes]

In order to move from working with one kind of primary document (constitution) to another (case law), this preliminary activity asks students to begin by reflecting on what they've learned thus far. If time permits, begin by asking students to apply what they've learned regarding individual rights to their own experience.

1. **Quick Write:** Make a list of all the words that pop into your mind when you think about what freedom means to you.
2. **FFW 1:** Tell the story of a time when you felt as though your freedom was curtailed (i.e. freedom of speech, freedom from “search and seizure”, freedom of religion, etc.). Make sure that you include plenty of details. Your reader/listener should be able to imagine your story—what happened, how you felt and why. [7 Minutes]
3. **Pair Share.** Read your story to a partner. Make sure to listen actively—what freedoms were taken away? Why? (You might even take notes as you listen.)
4. **FFW 2:** Return to the work we did with Amendments I and IV of the *US Constitution* and Article 1 Sections 3 and 8 of the *NY Constitution*. Pretend that you are one of the writers of either of these documents. Respond to your partner's story; explain why their freedom *had* to be curtailed. In other words, your goal is to use the primary source texts in order to help your partner understand what happened in their story. [7 Minutes]
5. **Bracket & Share FFW 2.**
6. **Process Talk:** Based on what we just heard, let's generate a list of the rights of a New York State Citizen when it comes to freedom of expression. (Write on board.)
(with Middle School students, you might want to review what “expression” means in the context of “freedom of expression”)

Case Law Focused Jigsaw Group Work (Timing for this activity depends on class size and the level of the students; this may take more than one class session. Reading and worksheet can be assigned for homework. Students can also do the “expert” group meetings on one day with the group presentations following in the next class session. For Middle School students you may want to excerpt some of the documents, particularly Document E, or you might choose to have less groups and work with fewer documents.)

7. **Defining terms:** What is the difference between a “case” (Case Law) and a “constitution”?
(Depending on the level of the students/class, it might be a good idea to preface the jigsaw activity with a discussion of the difference between the federal and state constitutions students have looked at and case law. This step can also be skipped if students already know this.)
8. **Introducing the Jigsaw Activity:** Developed by psychologist Elliot Aronson, the “jigsaw” is a collaborative learning technique easily adaptable for students of all ages and levels. Students are organized into groups and given specific tasks so that each student is integral to the success (or understanding) of the entire class. What follows is a modification of the “jigsaw” that aims to foster critical reading and questioning across a range of different (and contrasting) primary documents that address New York State Shield Law and freedom of expression.
9. **Assign groups:** Students will work with Documents C, D, E, and F in the document packet. Groups should be no larger than 4 students, so you may choose to have two separate groups focus on the longer documents (i.e. Document E).
10. **Each student should receive** a copy of the document they've been assigned along with the Jigsaw instructions and worksheet.
11. **Ask students to read their documents individually** (either in class or at home for homework).
 - a. **Annotation:** Ask students to underline moments in the text that are important to the main idea the document focuses on. Circle words or phrases that are puzzling (words to look up, places in the text that you have questions about, etc.).

- b. **Worksheet:** Students should complete the **Case Law Jigsaw worksheet** individually after reading their documents. Encourage them to write in pencil so that they can add and make changes once they are sharing their ideas with their group members.
12. **“Expert” Group Meetings:** Students who have the same documents will meet to discuss their text and share the writing they did on the worksheet. The goal of these “expert” group meetings is for students to help each other understand their primary document and prepare to teach the text to their classmates. **Groups should be given 30 minutes to discuss the document and plan how they will teach it.**
13. **Group presentations: Handout** the rest of the documents so that each student has a copy of all 4 in front of them for the presentations. Going in order of the documents (beginning with Document C and ending with Document F), **each group has 5-7 minutes to “teach” their document** and answer any questions the class might have. As students listen to each other, they should complete the **Group Presentation worksheet**.
14. **Discussion:** Guiding questions:
 - a. What do these 4 documents, when put into conversation, teach us?
 - b. What legal questions are involved?
 - c. How do you imagine the Shield Law impacts us today?
 - d. What do these documents teach us about New York State law?
15. **Process Write:** Where is your thinking regarding these primary documents? What discovery about your document did the other texts help you to make? What questions do you still have? [5 Minutes]
16. **Share or collect** process writes. If collected, these pieces of writing can be used as an exit ticket to assess where the class is as far as understanding the level of documents the activity involved.