 

|  |
| --- |
| Defending Democracy at Home: Advancing Constitutional Rights, Obergefell v. Hodges (2015) Same-Sex Marriage |
| History Social Sciences, Grades 11-12, ELA 11-12 |
| In this unit, students will examine the role of state courts, individuals, and advocacy organizations in working to advocate for the expansion of constitutional rights in advance of Obergefell v. Hodges (2015), the Supreme Court Case that led to the protection of same-sex marriage as a fundamental right under the Constitution. Students will delineate and evaluate levels of reasoning made by the Supreme Court to identify the application of constitutional principles, use of legal reasoning, and the premises, purposes, and arguments made. The unit will culminate with a CEPA where students will be assessed on their ability to delineate and evaluate the levels of reasoning in one of the opinions of the court. As a result of the unit, students will be able to transfer their learning to other contexts where they might be asked to analyze primary source documents and critically evaluate historical decisions, delineate and evaluate the reasoning in historical texts and works of public advocacy, and more generally, to make more informed opinions about issues in the United States Government today. |

*Model Curriculum Units include lesson plans, embedded performance assessments, and resources. In using these units, consider the variability of learners in your class and adapt as necessary.*

This document was prepared by the
Massachusetts Department of Elementary and Secondary Education

Jeffrey C. Riley

Commissioner

**Board of Elementary and Secondary Education Members**

Mr. Paul Sagan, Chair, Cambridge

Ms. Katherine Craven, Brookline

Mr. Edward Doherty, Hyde Park

Ms. Amanda Fernández, Belmont

Ms. Maya Mathews, Student Advisory Council, Newton

Ms. Margaret McKenna, Boston

Mr. Michael Moriarty, Holyoke

Mr. James Morton, Vice Chair, Springfield

Mr. James Peyser, Secretary of Education, Milton

Ms. Mary Ann Stewart, Lexington

Dr. Martin West, Newton

Jeffrey C. Riley, Commissioner

Secretary to the Board

The Massachusetts Department of Elementary and Secondary Education, an affirmative action employer, is committed to ensuring that all of its programs and facilities are accessible to all members of the public. We do not discriminate on the basis of age, color, disability, national origin, race, religion, sex, gender identity, or sexual orientation.

Inquiries regarding the Department’s compliance with Title IX and other civil rights laws may be directed to the

Human Resources Director, 75 Pleasant St., Malden, MA 02148-4906. Phone: 781-338-6105.

© 2018 Massachusetts Department of Elementary and Secondary Education

Permission is hereby granted to use any or all parts of this document under the terms of the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Unported License. Additionally, the unit may also contain other third-party material used with permission of the copyright holder. Refer to Text Credits for specific information regarding third-party copyrights.

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, MA 02148-4906

Phone 781-338-3000 TTY: N.E.T. Relay 800-439-2370

[www.doe.mass.edu](http://www.doe.mass.edu)



Image and Text Credits:

Every effort has been made to acknowledge copyright. Any omissions brought to our attention will be corrected in subsequent editions.

The contents of this document were developed under a grant from the U.S. Department of Education. However, they do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government.

Massachusetts Department of Elementary and Secondary Education, 75 Pleasant St, Malden, MA 02148-4906. Phone 781-338-3300, TTY: N.E.T. Relay 800-439-2370, [www.doe.mass.edu](http://www.doe.mass.edu)

**Table of Contents**

Background Information for LGBTQ-Themed Model Curriculum Units……………………………………………………………………………………...5

Unit Plan…………………………………………………………………………………………………………………………………………………………………………………6-8

Lesson 1………………………………………………………………………………………………………………………………………………………………………………..9-13

Lesson 2………………………………………………………………………………………………………………………………………………………………………………14-17

Lesson 3………………………………………………………………………………………………………………………………………………………………………………18-22

Lesson 4………………………………………………………………………………………………………………………………………………………………………………23-27

CEPA………………………………………………………………………………………………………………………………………………………………………………………..28

Unit Resources……………………………………………………………………………………………………………………………………………………………………29-33

**Background Information for LGBTQ-Themed Model Curriculum Units**

The addition of sexual orientation to the Massachusetts “Student Rights Law” (MGL Ch. 76, 5) in 1993 resulted in the adoption by the Board of Education of regulations (603 CMR 26), requiring that “all public school systems shall, through their curricula, encourage respect for the human and civil rights of all individuals regardless of race, color, sex, gender identity, religion, national origin or sexual orientation.”

Legislation passed in 2011 (Chapter 199) that expanded protections to transgender and gender non-conforming students. Since then, DESE has issued a document titled, *Principles for Ensuring Safe and Supportive Learning Environments for LGBTQ Students* (March 24, 2015). In 2018, the revised History and Social Studies Framework reflects LGBTQ inclusive content. For more information on content and legislation related to the inclusion of LGBTQ inclusive measures, please see the DESE website for Regulations and Laws -- Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment: <http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html> -- and guidance for other issues of Sexual Orientation and Gender Identity/ Expression: <http://www.malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter199>. DESE is committed to increasing our current base of MCUs to address LGBTQ inclusion in school curricula.

The Safe Schools Program for LGBTQ Students and the Massachusetts Commission on LGBTQ Youth, with the help of DESE’s Office of Literacy & Humanities has begun to make these inclusive curricula available on both the DESE MCU portal and DESE’s Safe Schools for LGBTQ Students portal. Implementing the MCUs in the current landscape helps ensure both safe and equitable environments for LGBTQ students and increased understanding of sexual orientation and gender identity for all students. These materials will help all students value the contributions of LGBTQ people and understand their place in history, literature, science and other fields. Lessons also support students in becoming more accepting neighbors and community members and in developing positive civic dispositions for the 21st century.

| **Stage 1 - Desired Results** |
| --- |
| **ESTABLISHED GOALS G**USII Topic 4-Defending Democracy: The Cold War and Civil Rights at HomeHSS US II Standard 36B * Using primary and secondary sources, analyze the causes and course of one of the following social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation-the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Civil Rights Movement; the role of the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* (2004) and the role of other state courts in providing equal protection for same-sex marriage in advance of the United States Supreme Court decision in *Obergefell v. Hodges* (2015)

ELA/Literacy* RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Supporting Standards*** W. 11-12.9 Draw evidence from literary or informational texts to support written analysis, interpretation, reflection, and research, applying one or more grades 11–12 standards for Reading Literature or Reading Informational Text as needed
* W. 11-12.10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.
* 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.

**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**b.** Work with peers to set rules for collegial discussions and decision-making (e.g., informal consensus, taking votes on key issues, presentation of alternate views), clear goals and deadlines, and individual roles as needed.**c.**   Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.**d.** Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented. | ***Transfer*** |
| ***Students will be able to independently use their learning to…* T*** Analyze primary source documents and critically evaluate historical decisions.
* Delineate and evaluate the reasoning in historical texts and works of public advocacy.
* Make more informed opinions about issues in the United States Government today.
 |
| ***Meaning*** |
| **UNDERSTANDINGS U*****Students will understand that…**** A wide range of stakeholders play major roles in social and political movements.
* The Supreme Court can affect the lives of individuals.
* Several seminal and historical texts apply constitutional principles and make use of legal reasoning.
 | **ESSENTIAL QUESTIONS Q**Q1. Who is responsible for advancing our constitutional rights? |
| ***Acquisition*** |
| ***Students will know…* K*** Same-sex marriage is a constitutional right.
* The Supreme Court played a role in providing equal protection for same-sex marriage.
* Other state courts and particular cases played a role in providing equal protection for same-sex marriage in advance of the Obergefell vs. Hodges decision in 2015.
* Specific elements of a legal argument and specific constitutional principles involved with writing the argument.
 | ***Students will be skilled at…* S*** Delineating and evaluating the reasoning in seminal/historical texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy. Specifically-Identifying and explaining how ideas from the US Constitution relate to a text, recognizing the elements of legal argument as they relate to a text, and identifying the claims, reasons, and arguments in texts that fight/argue for the rights of people.
 |
| **Stage 2 - Evidence** |
| **Evaluative Criteria** | **Assessment Evidence** |
| * Student has identified the main argument and purpose of the opinion of the Supreme Court Justice.
* Student has identified how the argument applies constitutional principles.
* Student has identified how the argument makes use of legal reasoning.
* Student has identified how the argument advocates for the best interest of the general public.
 | **CURRICULUM EMBEDDED PERFORMANCE ASSESSMENT (PERFORMANCE TASKS)**To assess learning, students will evaluate the reasoning of one of the opinions of the court that was not covered during the lessons. The students will evaluate the reasoning for its application of constitutional principles, use of legal reasoning, and use of public advocacy.  |
| **Stage 3 – Learning Plan** |
| ***Summary of Key Learning Events and Instruction***Lesson 1: Protecting and Advancing Our Constitutional RightsLesson 2: Exploring Obergefell v. Hodges Lesson 3: Constitutional Principles and Legal Reasoning Lesson 4: Approaching Historical Texts CEPA: Curriculum Embedded Performance Assessment |
| *Understanding by Design*®. © 2012 Grant Wiggins and Jay McTighe. Used with permission. |

####  Lesson 1: Protecting and Advancing Our Constitutional Rights

**Brief Overview of Lesson:** This lesson launches the work of the unit and presents the essential question: *Who is responsible for advancing our constitutional rights?* Students will begin to understand that a wide range of stakeholders played roles in advocating for same-sex marriage to be a protected right under the Constitution.

**Prior Knowledge Required:** Students will need background knowledge from US History when discussing concepts such as the Supreme Court and constitutional principles. There is a model curriculum unit that focuses on constitutional principles.

<http://www.doe.mass.edu/CandI/model/protected.ashx?id=208A594C9A30FE7AA318CFFB8EFFE4CF0EDD22AC&file=mcu/HSSgHS-ConstitutionalRights.pdf>

**Estimated Time (minutes):** 60-90 minutes (lesson can be made shorter or longer-some items can be done in class or completed for homework; supplemental materials can take more time)

**Resources for Lesson (list resources and materials):**

* Supplies: Chart paper, notebooks for unit writing logs, highlighters, markers, pens, pencils, projector
* Video: <https://www.youtube.com/watch?v=cxixOeRjKto&t=37s>

**Lesson 1:** Protecting and Advancing Our Constitutional Rights

**Time (minutes):**  **60-90 minutes**

**Overview of the Lesson**

This lesson launches the work of the unit and presents the essential question: *Who is responsible for advancing our constitutional rights?* Students will begin to understand that a wide range of stakeholders played roles in advocating for same-sex marriage to be a protected right under the Constitution.

**Standard(s)/Unit Goal(s) to be addressed in this lesson:**

**Priority Standards HSS**

HSS US II Standard 36B

Using primary and secondary sources, analyze the causes and course of one of the following social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation-the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Civil Rights Movement; the role of the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* (2004) and the role of other state courts in providing equal protection for same-sex marriage in advance of the United States Supreme Court decision in *Obergefell v. Hodges* (2015)

RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Supporting Standards**

W. 11-12.9 Draw evidence from literary or informational texts to support written analysis, interpretation, reflection, and research, applying one or more grades 11–12 standards for Reading Literature or Reading Informational Text as needed

W. 11-12.10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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.

SL.11-12.1d Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

**Essential Question addressed in this lesson:** *Who is responsible for advancing our Constitutional rights?*

**Anticipated Student Preconceptions/Misconceptions:**

Students might have questions or need background knowledge in LGBTQ issues. Please see the unit resources at the end of the unit for extra resources to introduce the topic.

**Materials:** Chart paper, notebooks for unit writing logs, highlighters, markers, pens, pencils, projector

**Instructional Tips/Strategies/Suggestions for Teacher**

* For the lesson opening use, the following ideas for students who need extra support. The students can write ideas, thoughts, or connections that come to mind, rewrite the quote in their own words, and/or list unfamiliar words.
* For the brainstorming activity:Hang a list of constitutional rights and the definition of a constitutional principle up in the classroom for students to refer to throughout the unit. constitutional principle: an idea found in the United States Constitution, the Bill of Rights, and other amendments that form the basis of United States government and law.
* For the reading(s), have at least one copy of the text (digital or print); and copies of the questions for analysis (digital or printed); and materials for highlighting or marking the text.
* Keep the essential questions and other activities clearly displayed throughout the lesson.

**Assessment**

Written responses, group work, peer feedback responses, answers to questions about the video, responses to the essential question

**Lesson Details**

**Lesson Opening**

**Anticipate:** Think/Write/Pair-Share: Ask students to respond to the quote below by thinking about it, writing about it, and then sharing their ideas with a partner. Let students know that they can write down their ideas in their unit writing log**.**

*Let us as Americans never forget that we possess a noble inheritance which has been secured by our ancestors through toil, suffering, and bloodshed-an inheritance which we must wisely improve and faithfully guard so that we may transmit to coming generations all the priceless blessings of life, of liberty, of property, of religion, and of the independence that we have enjoyed. Charles Edgar Finch adapted from a Supreme Court Justice.*

**Pair-Share-**Share your thoughts with a partner and write one comment on your partner’s quick-write handout. Ideas for comments to partners include providing feedback, summarizing the partner’s response, and listing other ideas. Also, the student can ask clarifying questions by asking if their partner can elaborate on an idea or provide an example. After the students have completed the assignment, ask at least two groups to share their comments with the class. Allow time for students to ask any questions that they might have about the quote.

**During the Lesson:**

**Direct:** students to collaboratively generate/brainstorm a list of rights under the Constitution.

Examples of constitutional rights:right to freedom of speech, right to bear arms, right to an attorney, right to protection from cruel and unusual punishment, right to freedom of the press, right to a jury trial, right to freedom of religion, right to peaceably assemble, protection from self-incrimination (testifying against yourself in a criminal trial), right to protection from unreasonable searches and seizures, right to Due Process and Equal Protection under the 14th amendment.

**Allow**:students the time to ask clarifying questions.

**Present:**the essential question for the unit to the students. Explain that they will be exploring the question of *Who is responsible for advancing our constitutional rights?* Ask the students to write the question in their unit writing logs. Also, explain to the students that they will be exploring particular people and groups responsible for advancing our constitutional rights.

**Direct:** students to watch the video and write down any thoughts, comments or connections that come to mind in their unit writing logs.

<https://www.youtube.com/watch?v=cxixOeRjKto&t=37s>

**Organize:** students into groups to summarize the content of the video by answering the questions: Who? What? Why? When? Where? How?

**Discuss:** the answers to the activity and provide more clarity on the work of the unit. “In the unit, we will examine the people responsible for advancing our constitutional rights and the strategies/processes they use to do it”.

**Lesson Closing:**

**Close:** Ask students to take a few minutes to reflect on their notes and develop a preliminary answer to the essential question. Note**:** Students should begin to recognize that multiple stakeholders are responsible for advancing our constitutional rights.

### Lesson 2: Exploring Obergefell v. Hodges 2015

**Brief Overview of Lesson:** Students will work collaboratively to explore critical details about the Obergefell v. Hodges 2015 Supreme Court decision. Students will read an article/analysis with insights written by a lawyer who provides key content takeaways from the Obergefell v. Hodges decision. Throughout the lesson, students will engage in reading and reflection with their peers.

**Prior Knowledge Required:** Students will need background knowledge from US History when discussing concepts such as the Supreme Court and constitutional principles. There is a model curriculum unit that focuses on constitutional principles.

<http://www.doe.mass.edu/CandI/model/protected.ashx?id=208A594C9A30FE7AA318CFFB8EFFE4CF0EDD22AC&file=mcu/HSSgHS-ConstitutionalRights.pdf>

**Estimated Time (minutes):** 60-90 minutes (lesson can be made shorter or longer-some items can be done in class or completed for homework; supplemental materials can take more time)

**Resources for Lesson (list resources and materials):**

* Supplies: notebooks for unit writing logs, highlighters, markers, pens, pencils, projector
* Article: Chemerinksy on Obergefell v. Hodges, 2015

<https://www.law.uci.edu/news/in-the-news/2015/oclawyer-dean-cover-2015aug.pdf>

**Lesson 2:** Exploring Obergefell v. Hodges 2015

**Time (minutes):** 60-90 minutes (lesson can be made shorter or longer-some items can be done in class or completed for homework; supplemental materials can take more time)

**Overview of the Lesson:** Students will work collaboratively to explore critical details of the Obergefell v. Hodges 2015 case.

**Standard(s)/Unit Goal(s) to be addressed in this lesson:**

**Priority Standards HSS**

HSS US II Standard 36B

Using primary and secondary sources, analyze the causes and course of one of the following social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation-the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Civil Rights Movement; the role of the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* (2004) and the role of other state courts in providing equal protection for same-sex marriage in advance of the United States Supreme Court decision in *Obergefell v. Hodges* (2015)

RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Supporting Standards**

W. 11-12.9 Draw evidence from literary or informational texts to support written analysis, interpretation, reflection, and research, applying one or more grades 11–12 standards for Reading Literature or Reading Informational Text as needed.

W. 11-12.10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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.

SL.11-12.1d Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

**Essential Question addressed in this lesson:** *Who is responsible for advancing our constitutional rights?*

**Materials:** Writing logs, pens, pencils, chart paper

**Anticipated Student Preconceptions/Misconceptions:**

Students have already learned about the Supreme Court and its functions in prior grades. Teachers might want to provide more background knowledge on the Supreme Court. Note: There is a Constitutional Principles Model Curriculum Unit for United States History I that teachers might want to pull activities from.

**Instructional Tips/Strategies/Suggestions for Teacher**

* For the reading(s), have at least one copy of the text (digital or print); and copies of the questions for analysis (digital or printed); and materials for highlighting or marking the text.
* Keep the essential questions and other activities clearly displayed throughout the lesson.
* Ideas/Strategies for lesson opening: provide a short outline of activities and concepts for students with key points from yesterday. Also, show a short commercial. <https://www.youtube.com/watch?v=-ozTTeoF2MI>; Give a prize for the best commercial to engage students more deeply in the activity.

**Assessments**: responses to the DRTA activity, responses to the 3-2-1 exit ticket, oral and written responses with peers

**Lesson 2:** Exploring Obergefell v. Hodges

**Lesson Details:**

**Lesson Opening:**

**Commercial:** Put students into groups to review and discuss their learning from lesson 1. At least one student from each group must present a recap of the lesson in the form of a commercial. Explain to the students that they are summarizing their learning from yesterday. Tell them to identify main concepts and ideas discussed and what the unit will be addressing. Also, explain to the students that they are essentially answering the question of “What did you miss from yesterday’s class?” (but in the form of a commercial)

**Preview:** the work of the day. Discuss with students that they will be reading an article/analysis with insights written by a lawyer who provides key content takeaways from the Obergefell v. Hodges case from 2015. Explain that they will engage in a reading and reflection activity with their peers. Ask the students to keep the essential question for the unit in their minds as they are engaging in the work of the unit. Remind the students to put their insights into their writing logs if they wish.

**During the Lesson:**

**Distribute and Read:** Chemerinksy on Obergefell v. Hodges. Use the Directed Reading/Thinking Activity (DRTA)to encourage students to engage in reflective thinking while reading the text and to encourage peer-to-peer interaction.

* Preview the title, headings, keywords, summary with the students.
* Students are then asked to create questions from the section headings in the text to identify what they will learn.
* Students can make oral or written predictions as to the content of the text.
* Next, students read the text in short sections, checking their prediction and summarizing the main point for each section.
* Students are asked to check their predictions after each short reading section by referring to the evidence in the text that answers their questions.
* Finally, the students summarize the main points in the text in their own words, orally or in writing.

**Lesson Closing:**

**Close: 3-2-1-**Ask students to write down 3 things they learned, 2 things they have a question about, 1 thing they want the teacher to know in their writing logs.

### Lesson 3: Constitutional Principles and Legal Reasoning

**Brief Overview of Lesson: :** Students will learn about the application of constitutional principles and legal reasoning made in arguments in front of the Supreme Court. By acting as “text detectives” students will return to the text from Lesson 2 and answer key content questions in groups. The activity will ensure that students have a deeper understanding of the case by identifying the author’s argument and how ideas from the Constitution relate to the article.

**Estimated Time (minutes):** 60-90 minutes (lesson can be made shorter or longer-some items can be done in class or completed for homework; supplemental materials can take more time)

**Resources for Lesson (list resources and materials):**

* Supplies: Highlighters, markers, pens, pencils, writing logs, large index cards
* Article-Chemerinksy on Obergefell v. Hodges

<https://www.law.uci.edu/news/in-the-news/2015/oclawyer-dean-cover-2015aug.pdf>

* Article: On Thinking Like a Lawyer by Anne-Marie Slaughter

<https://www.princeton.edu/~slaughtr/Commentary/On%20Thinking%20Like%20a%20Lawyer.pdf>

**Lesson 3**: Constitutional Principles and Legal Reasoning

**Time (minutes):**  **60-90 minutes**

**Overview of the Lesson:** Students will learn about the application of constitutional principles and legal reasoning made in arguments in front of the Supreme Court. By acting as “text detectives” students will return to the text from Lesson 2 and answer key content questions in groups. The activity will ensure that students have a deeper understanding of the case by identifying the author’s argument and how ideas from the Constitution relate to the article.

**Standard(s)/Unit Goal(s) to be addressed in this lesson:**

**Priority Standards HSS**

HSS US II Standard 36B

Using primary and secondary sources, analyze the causes and course of one of the following social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation-the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Civil Rights Movement; the role of the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* (2004) and the role of other state courts in providing equal protection for same-sex marriage in advance of the United States Supreme Court decision in *Obergefell v. Hodges* (2015)

RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Supporting Standards**

W. 11-12.9 Draw evidence from literary or informational texts to support written analysis, interpretation, reflection, and research, applying one or more grades 11–12 standards for Reading Literature or Reading Informational Text as needed

W. 11-12.10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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.

SL.11-12.1d Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

**Essential Question(s) addressed in this lesson:** *Who is responsible for advancing our constitutional rights?*

**Materials:** Writing logs, pens, pencils, index cards

**Anticipated Student Preconceptions/Misconceptions:**

Students have already learned about the Supreme Court and its functions in prior grades. Teachers might want to provide more background knowledge on the Supreme Court. Note: There is a Constitutional Principles Model Curriculum Unit for United States History I that teachers might want to pull activities from.

**Instructional Tips/Strategies/Suggestions for Teacher:**

* Idea for lesson opening:fornlearners who might have difficulty getting started, offer the following sentence starters. *Based on what you know now, how would you adapt your answer to the essential question? Can you elaborate on your answer (add more detail/be more specific), What are the central ideas to consider in your answer?*
* For the reading(s), have at least one copy of the text (digital or print); and copies of the questions for analysis (digital or printed); and materials for highlighting or marking the text.
* Keep the essential questions and other activities clearly displayed throughout the lesson.

**Assessment**

Written responses, providing peer feedback, responses to content questions, responses to exit tickets

**Lesson Details:**

**Lesson Opening:**

**Anticipate:** Students will complete a quick-write in their unit writing logs. Students will be asked to read and reflect on their previous responses/attempts at answering the essential and question: *Who is responsible for advancing our constitutional rights?* Then they will write about other ideas that they would add to their answers as a result of new learning.

**Preview the work of the day**: Today we will act as text detectives. We will return to the text from yesterday and answer key content questions in groups. The activity will ensure that we understand the case and that we begin to prepare for the work of the CEPA. We will focus on identifying the argument that the author makes and how ideas from the Constitution relate to the article. Remind the students that a constitutional principle is an idea found in the United States Constitution, the Bill of Rights, and other amendments that form the basis of United States government and law. Once again, it is helpful to have the terminology displayed in the classroom so that the students can reference them.

**During the Lesson:**

**Put students into groups** for theText Detective: Group Activity:Ask the students to return to the text and answer the following questions:

* Identify: What is the main argument and opinion of the author?
* What circumstances triggered the case?
* How do ideas from the Constitution relate to the article?
* What statute or action triggered the dispute? What part of the Constitution is at issue?
* What is the basic legal question that the court is being asked to address?
* What was the outcome?
* How did the majority reach the decision? What was the legal reasoning?
* What other views were expressed?

**Allow time** to review the answers to the questions with the class.

**Distribute:** *Thinking Like a Lawyer.* Review the basics of the text for the class. Put the students in 5 separate groups. Ask each group to provide 1 sentence that summarizes the paragraph. Paragraphs 2, 3, 4, 5, 6. Ask students to write all 5 summary sentences on an index card. Ask them also to write the following definitions on the card.

* **constitutional principles**: an idea found in the United States Constitution, the Bill of Rights, and other amendments that form the basis of United States government and law.
* **legal reasoning:** use premises; major premise=statement of the law, and a minor premise-a statement of fact about people or things

**Discuss** the work of the day and explain that the CEPA will call on the students to identify constitutional principles and legal reasoning in a seminal text. Allow time for clarification questions.

**Lesson Closing:**

**Close**: Exit ticket-Daily Dozen. The students will choose two questions from the list to respond to about the day’s lesson.

1. The thing that made the most sense to me today was…
2. One thing that I just don’t understand is…
3. When someone asks me what I did in math today, I can say…
4. One thing I would like more information about is…
5. I need more examples of…
6. I enjoyed…
7. The most important concept that we discussed today was…
8. Today’s class would have been better if we had…
9. I was confused by…
10. The thing we did in class today that best fit my learning style was…
11. The one thing the teacher did today that best fit my learning style was…
12. The one thing the teacher did today that did not work well for me was… 13. This point is really clear… 14. One thing that squares with things I already know is… 15. An idea that is still going around in my head is…

### Lesson 4: Approaching Seminal and Historical Texts

**Brief Overview of Lesson:** During the lesson, students work collaboratively to approach a historical text. Students will identify and evaluate the text for its use of legal reasoning (prior court decisions), application of constitutional principles, and its presentation of arguments that look out for the best interests of the public.

**Estimated Time (minutes):** 60-90 minutes (lesson can be made shorter or longer-some items can be done in class or completed for homework; supplemental materials can take more time)

**Resources for Lesson (list resources and materials):**

* Supplies: highlighters, markers, pens, pencils, writing logs, projector
* Video: <https://www.nytimes.com/video/us/politics/100000005978939/watch-remarks-from-justice-kennedys-swearing-in.html?emc=edit_th_180628&nl=todaysheadlines&nlid=378108220628>
* Document: Obergefell v. Hodges (2015). <http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf>

**Lesson 4:** Approaching Seminal and Historical Texts

**Time (minutes):**  **60-90 minutes**

**Overview of the Lesson :** During the lesson, students work collaboratively to approach a historical text. Students will identify and evaluate the text for its use of legal reasoning (prior court decisions), application of constitutional principles, and its presentation of arguments that look out for the best interests of the public.

**Standard(s)/Unit Goal(s) to be addressed in this lesson:**

**Priority Standards HSS**

HSS US II Standard 36B

Using primary and secondary sources, analyze the causes and course of one of the following social and political movements, including consideration of the role of protest, advocacy organizations, and active citizen participation-the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Civil Rights Movement; the role of the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* (2004) and the role of other state courts in providing equal protection for same-sex marriage in advance of the United States Supreme Court decision in *Obergefell v. Hodges* (2015)

RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Supporting Standards**

W. 11-12.9 Draw evidence from literary or informational texts to support written analysis, interpretation, reflection, and research, applying one or more grades 11–12 standards for Reading Literature or Reading Informational Text as needed

W. 11-12.10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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.

SL.11-12.1d Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

**Essential Question(s) addressed in this lesson:** *Who is responsible for advancing our constitutional rights?*

**Materials:** Writing logs, pens, pencils, projector, index cards

**Anticipated Student Preconceptions/Misconceptions:**

Students have already learned about the Supreme Court and its functions in prior grades. Teachers might want to provide more background knowledge on the Supreme Court. Note: There is a Constitutional Principles Model Curriculum Unit for United States History I that teachers might want to pull activities from.

**Instructional Tips/Strategies/Suggestions for Teacher**

* For the reading(s), have at least one copy of the text (digital or print); and copies of the questions for analysis (digital or printed); and materials for highlighting or marking the text.
* Keep the essential questions and other activities clearly displayed throughout the lesson.

**Assessments**: written responses, providing peer feedback, responses to content questions, group work

**Lesson Details:**

**Lesson 4:** Approaching Seminal and Historical Texts

**Lesson Opening:**

**View:** Students watch a 2-minute video and add any ideas or insights to their answers to the essential question for the unit. <https://www.nytimes.com/video/us/politics/100000005978939/watch-remarks-from-justice-kennedys-swearing-in.html?emc=edit_th_180628&nl=todaysheadlines&nlid=378108220628>

**Key Word Recap Activity.** Students will look in their notes and work from yesterday and identify 5 keywords or key concepts. Students will then turn to a partner to review the keywords selected. Allow time for the class to share out the keywords that they selected from their notes.

**Preview** the work of the day: Approaching the text and preparing for the CEPA**.** Explainto the students that the text that they will be reading during the lesson uses legal reasoning (prior court decisions), applies constitutional principles, and presents arguments that look out for the best interests of the public. Explain that during the lesson and for the CEPA the students will be analyzing the text for legal reasoning (prior court decisions), the application of constitutional principles, and public advocacy (the extent to which the premises, purposes, and arguments presented look out for the best interest of the public). Ask students to take out their index cards from yesterday to support them in their analysis.

**During the Lesson:**

**Be the teacher.** **What is the standard asking you to do?** Explain to the students that to begin to understand the approach to the text and the CEPA, the students will need to figure out what the standard is asking of them. Students can work in partners to unpack the standard by answering the questions below the important terminology.

**Standard:** RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses). Distribute or project the important terminology below and ask the students to unpack the standard for this class and for the CEPA by answering the questions below in groups.

**Important terminology:**

**delineate:** to describe accurately and in detail

**evaluate:** to judge the validity, relevance, and sufficiency of evidence in an argument

**constitutional principle**: an idea found in the United States Constitution, the Bill of Rights, and other amendments that form the basis of United States government and law.

**legal reasoning**: use premises; major premise=statement of the law, and a minor premise-a statement of fact about people or things

**seminal US text**: a primary source document of great historic significance to the democratic values in the United States.

premises,  purposes, and arguments that relate to **public advocacy** look out for the best interest of the public.

In order to meet the standard, you will need to understand that:

In order to understand, you will need to consider such questions as:

In order to consider such questions well, you will need to know:

In order to consider such questions well, students will need to be able to:

**Allow:** time to review the answers with the class.

**Distribute** the syllabus pages (1-5) and pages 1-28 of the Opinion of the Court. Explain that the syllabus lays out the outline of the text of the opinion of the court. Review the structure of the syllabus with the students. Draw attention to the four principles and traditions that demonstrate that marriage is a fundamental right protected under the constitution.

**Active Reading Activity**: Break students into 4 groups to analyze sections of the opinion of the court. By using the text, each group is responsible for identifying examples of legal reasoning, application of constitutional principles, and public advocacy. The groups will read the portion of text and then analyze the text for the three types of reasoning. Group 1-pg.12-bottom of 13, 2-Bottom of 13-bottom of 14, 3-bottom of 14-top of 16, 4-top of 16-mid 17.

1. Summarize the principle or tradition that your group was asked to read.
2. Identify how the argument applies constitutional principles.
3. Identify how the argument makes use of legal reasoning.
4. Identify how the argument advocates for the best interest of the general public.

After the group answers the questions above, have them check their responses against the following criteria:

* Group has identified and evaluated how the argument applies constitutional principles.
* Group has identified and evaluated how the argument makes use of legal reasoning.
* Group has identified and evaluated how the argument advocates for the best interest of the general public.

Each group will share their answers on chart paper for the rest of the class. Students write down the answers from the other groups.

**Lesson Closing:**

**Close-Postcard:** Students write 3 key ideas that they think everyone should have learned in a postcard to their parents or friends.

#### **Curriculum Embedded Performance Assessment (CEPA)**

**CEPA**: To assess learning, students will evaluate the reasoning of one of the opinions of the court that was not covered during the lessons. The students will evaluate the reasoning for its application of constitutional principles, use of legal reasoning, and use of public advocacy.

**Standards assessed:**

RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

**Criteria for Analysis**

* 25 points: Student has identified the main argument and purpose of the opinion of the Supreme Court Justice and has described it accurately and in detail.
* 25 points: Student has identified and evaluated how the argument applies constitutional principles.
* 25 points: Student has identified and evaluated how the argument makes use of legal reasoning.
* 25 points: Student has identified and evaluated how the argument advocates for the best interest of the general public.

**Important terminology:**

1. delineate: to describe accurately and in detail
2. evaluate: to judge the validity, relevance, and sufficiency of evidence in an argument
3. constitutional principle: an idea found in the United States Constitution, the Bill of Rights, and other amendments that form the basis of United States government and law.
4. legal reasoning: use premises; major premise=statement of the law, and a minor premise-a statement of fact about people or things
5. seminal US text: a primary source document of great historic significance to the democratic values in the United States.
6. premises,  purposes, and arguments that relate to **public advocacy** look out for the best interest of the public.

 **Unit Resources**

**Resources for Lesson 1:**

<https://www.youtube.com/watch?v=cxixOeRjKto&t=37s>

Chart paper, notebooks for writing logs, highlighters, markers, pens, pencils

**Strategies for Lesson 1:**

**Writing Log:** In this MCU, a writing log can be used to put notes, comments, questions, new learning, and other writing specific to the work of the unit.

**Think-Write-Pair-Share**: There are variations of this strategy. For lesson 1, ask students to respond to a quote by thinking about it, writing about it, and then sharing their ideas with a partner. Other variations from the “Go-To Strategies” include: after posing a question to the class, the teacher asks students to WRITE a response, PAIR with a learning partner to read and perhaps edit the written responses, and then SHARE the written responses with the class. The teacher may also collect the responses. This strategy infuses reading and writing skills into oral language development, which provides valuable reinforcement for ELs. Further, this strategy allows for processing time for content learning and student interaction.

**Resources for Lesson 2**

Article-Chemerinksy on Obergefell v. Hodges

<https://www.law.uci.edu/news/in-the-news/2015/oclawyer-dean-cover-2015aug.pdf>

writing logs, pens, pencils, highlighters

**Strategies for Lesson 2:**

**Writing Log:** In this MCU, a writing log can be used to put notes, comments, questions, new learning, and other writing specific to the work of the unit.

**Commercial:** This strategy is a helpful option to engage students when asking them to recap information. Students answer the question: What happened in ELA yesterday? Or, what did we learn today?

**Directed Reading/Thinking Activity (DRTA): This strategy increases reading comprehension and promotes peer-to-peer interaction.** There are variations of the DRTA strategy.For the MCU, the DRTA followed the procedure below:

* Preview the title, headings, keywords, summary with the students.
* Students are then asked to create questions from the section headings in the text to identify what they will learn.
* Students can make oral or written predictions as to the content of the text.
* Next, students read the text in short sections, checking their prediction and summarizing the main point for each section.
* Students are asked to check their predictions after each short reading section by referring to the evidence in the text that answers their questions.
* Finally, the students summarize the main points in the text in their own words, orally or in writing.

**3-2-1:** This strategy asks students to write down 3 things they learned, 2 things they have questions about, 1 thing they want the teacher to know.

**Resources for Lesson 3:**

* On Thinking Like a Lawyer by Anne-Marie Slaughter

<https://www.princeton.edu/~slaughtr/Commentary/On%20Thinking%20Like%20a%20Lawyer.pdf>

* Article-Chemerinksy on Obergefell v. Hodges

<https://www.law.uci.edu/news/in-the-news/2015/oclawyer-dean-cover-2015aug.pdf>

* Highlighters, markers, pens, pencils, writing logs
* large index cards

**Strategies/Activities for Lesson 3**

**Quick-write:** A quick-write is a short writing assignment. It is often called a journal entry, bell-ringer, or exit ticket.

**Writing Log:** In this MCU, a writing log can be used to put notes, comments, questions, new learning, and other writing specific to the work of the unit.

**Text Detective Group Activity:** Ask the students to return to the text and answer the following questions.

* Identify: What is the main argument and opinion of the author?
* What circumstances triggered the case?
* How do ideas from the Constitution relate to the article?
* What statute or action triggered the dispute? What part of the Constitution is at issue?
* What is the basic legal question that the court is being asked to address?
* What was the outcome?
* How did the majority reach the decision?/What was the legal reasoning?
* What other views were expressed?

**Exit ticket-Daily Dozen**:The students will choose two questions from the list to respond to about the day’s lesson.

The thing that made the most sense to me today was…

One thing that I just don’t understand is…

When someone asks me what I did in math today, I can say…

One thing I would like more information about is…

I need more examples of…

I enjoyed…

The most important concept that we discussed today was…

Today’s class would have been better if we had…

I was confused by…

The thing we did in class today that best fit my learning style was…

The one thing the teacher did today that best fit my learning style was…

The one thing the teacher did today that did not work well for me was…

This point is really clear…

One thing that squares with things I already know is…

An idea that is still going around in my head is…

**Resources for Lesson 4:**

* Highlighters, markers, pens, pencils, writing logs
* <https://www.nytimes.com/video/us/politics/100000005978939/watch-remarks-from-justice-kennedys-swearing-in.html?emc=edit_th_180628&nl=todaysheadlines&nlid=378108220628>
* Obergefell v. Hodges (2015). <http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf>

**Strategies/Activities for Lesson 4:**

**Writing Log:** In this MCU, a writing log can be used to put notes, comments, questions, new learning, and other writing specific to the work of the unit.

**Key Word Recap Activity.** Students will look in their notes and work from yesterday and identify 5 keywords or key concepts. Students will then turn to a partner to review the keywords selected. Allow time for the class to share out the keywords that they selected from their notes.

**Be the teacher.** **What is the standard asking you to do?** Explain to the students that to first understand the approach to the text and the CEPA, the students will need to figure out what the standard is asking of them. **Standard:** RI 11-12.8. Delineate and evaluate the reasoning in seminal historical texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses). Distribute or project the important terminology below and ask the students to unpack the standard for this class and for the CEPA by answering the questions below in groups.

**Active Reading Activity**: Break students into 4 groups to analyze sections of the opinion of the court. By using the text, each group is responsible for identifying examples of legal reasoning, application of constitutional principles, and public advocacy. The groups will read the portion of text and then analyze the text for the three types of reasoning.

Group 1-pg.12-bottom of 13, 2-Bottom of 13-bottom of 14, 3-bottom of 14-top of 16, 4-top of 16-mid 17.

Summarize the principle or tradition that your group was asked to read.

Identify how the argument applies constitutional principles.

Identify how the argument makes use of legal reasoning.

Identify how the argument advocates for the best interest of the general public.

**Postcard:** Students write 3 key ideas that they think everyone should have learned in a postcard to their parents or friends.

**General Unit Resources**

* For basic knowledge of LGBTQ history in America, see <http://www.pbs.org/wgbh/americanexperience/features/timeline/stonewall/>
* Assess students’ prior knowledge of laws that made homosexual activity an illegal offense from the 1940s to the present time, and of current rights for LGBT individuals. For basic information about LGBTQ laws in the U.S., see <https://www.splcenter.org/fighting-hate/intelligence-report/2005/history-anti-gay-movement-1977> and <https://www.theguardian.com/world/interactive/2012/may/08/gay-rights-united-states>

**Accommodation suggestions for students with IEPs and 504 Plans**

* Put students in heterogeneous groupings so that academically strong students can provide support and positive peer role modeling. Also, the diversity of perspectives in heterogeneous groups can be richer and more complex.
* Break down daily tasks in more manageable chunks.
* Allow for extra time for assignment deadlines but hold students accountable for the agreed upon deadline extensions.
* Provide access to all teacher notes.
* Provide a sample completed CEPA.

**Accommodation suggestions for EL students**

* Put students in heterogeneous groupings so that academically strong students can provide support and positive peer role modeling. Also, the diversity of perspectives in heterogeneous groups can be richer and more complex.
* Focus on academic language and vocabulary acquisition.
* Consider a “picture walk” instead of a quick write activity.  Explain picture walk here. [Not explained]
* Ask students to keep “content learning logs”. At the end of each lesson, students [students…?]
* Have students complete **content learning logs**-logs that increase skill of summarizing in writing, requires students to write a statement summarizing their learning or identify key points at the end of a lesson.

**Content Terminology:**

**Appellant:** The party making the appeal is the appellant or petitioner.

**Appellee:** the opposing party is the appellee or respondent.

**Dissenting opinion**: a justice who disagrees with the majority opinion of the court presents their dissenting opinion

**Equal protection**-14th amendment-provides that government cannot discriminate in its application of the laws. F.e. Cannot separate students by race. Defines citizenship and places restrictions on citizens in regard to the civil rights of citizens providing that no person shall be deprived of his life, liberty, or property without due process of law.

**Supreme Court**-a formal and legal institution led by appointed justices. The justices interact with one another to decide on cases and controversies using the Constitution as a guide. The opinions of the justices are contained in reports and it is the only institution asked to explain decisions through written opinions.

**Syllabus/headnote:** Provides an introduction to the Supreme Court opinions.