OER LESSON TEMPLATE (Example Only)

*Marbury v. Madison* and the Politics of the Early Republic

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| **Class:** AP® US History (other options: dual credit US History, AP® US Government and Politics, American Government) |
| **Unit:** Options: The Early Republic; The Judiciary, or as a culminating exercise on separation/balance of powers |
| **Lesson Title or Topic/Essential Question:**What is the lesson’s Guiding Question or Aim? Some curriculum designs call this the “Essential Question,” or “Essential Learning,” others refer to this as the “Enduring Learning.”Who shall determine what the Constitution means and what it does not mean, what laws and actions of government are permitted and what is not permitted constitutionally?How might political factors make such determinations contentious? Does such a climate reveal anything about the judicial process itself?  |
| **Estimated Classroom Time Required for the Lesson:** Three Days (50 minutes instruction ea.): Day 1. Introduction and Information (including start of video)Day 2. Information (continued), Discussion, Analysis, and Conclusions (takeaway)Day 3. Assessment/Looking Ahead  |
| **Content Standard Alignment:** What core skills/content knowledge will be introduced or reinforced during this lesson? Which content area standards are addressed in this lesson? Cite the appropriate curriculum and/or standards reference (district, state, CCSS ELA, etc.). These references can be expressed in narrative or by numerical reference, provided the citation is explicit and clear.Idaho Content Standards for U.S. History I: Standard 4, Goal 1, Objective 2 (USI.4.1.2); Goal 2, Objective 1 (USI.4.2.1)Note: The standards enumerated above are state-specific. Appropriate CCSS ELA Literacy “skills” standards can also be cited as practiced in this lesson (e.g., CCSS.ELA-Literacy.RH.11-12.1-10). |
| **Lesson Objectives/Instructional Outcomes:**What learning objectives/main ideas do students need to know (maximum of three)? Outline the concept, knowledge, skill, or application students can demonstrate upon lesson completion. This may be the same as or very similar to the content standard; however, it could be narrower or perhaps broader. Objectives may be stated in the form of critical questions students should be able to answer.Students will use *accurate information, reasoned analysis, and persuasive argument supported by appropriate examples/illustrations* to answer the following prompts:* What does judicial review mean, and why does that authority rest with the judiciary?
* Assess the validity of the following statement. Placed in its historical context, the case of *Marbury v. Madison* illustrates both the independence of the judiciary and the public perception that political (or public) opinion has influence on judicial decision-making.
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| **Lesson’s Relationship to Unit Structure:** Build context and coherence for the lesson by making connections with previous and future lessons. How does this lesson support the unit goals/enduring understandings? How does this lesson build on the previous lesson in this instructional sequence? How does this lesson support the next lesson in this instructional sequence? List key concepts and terminology necessary for students to understand the concepts as well as meet the standards, goals, and objectives of the lesson. **Connections to previous lessons, prior reading, and assignments:**The lesson builds on students’ knowledge of the Constitution of the United States (particularly Article III), Federalist policies, and the emergence of political parties and party rivalries (partisanship) during the presidencies of John Adams and Thomas Jefferson.**This lesson:**Students identify and explore transitional issues as the so-called Federal Era ends and Jeffersonian ideas/ideals conflict with Federalist policies. The Supreme Court’s exercise of judicial review in this case might be viewed, in part, as an outcome of this tension and certainly is seenas consequential in establishing the judiciary as a co-equal branch of government.Foundation for future lessons:The lesson foreshadows strengthening of the judicial branch, lays groundwork for the examination of future decisions of the Court (e.g., *Dred Scott v. Sanford*), introduces the concept of judicial activism, and exposes deep historic roots of the public’s perception that political rivalries/partisanship may affect even the judiciary and its decisions. |
| **Instructional Materials/Resources:**What academic and content specific vocabulary is introduced in this lesson? What materials (e.g., activity sheet, map, song) will be presented to students? Any accompanying “reading” should be considered an activity sheet, as it should include focus questions or tasks that make the purpose of the reading clear and/or guide students’ reading. List all the materials and resources required by the teacher and/or students; include preparation or other special instructions.**Resources:** * Related reading assignments from the adopted course text (a variable);
* Selected primary source documents (e.g., Chief Justice John Marshall’s opinion in the *Marbury v. Madison* case – free use is provided by sites such as OYEZ and the Bill of Rights Institute); Video *Marbury v. Madison*, produced by the Judicial Conference of the United States (1977), free for public use and widely available on the internet;
* Associated focus questions to guide students’ viewing and analysis of the video (What was the basis for Marbury’s claim, and why did he file suit in the Supreme Court of the United States? Suggest a reason/reasons why Marbury’s commission was withheld by Jefferson’s administration? What in the film suggests that political considerations may have influenced the Court’s approach to, deliberations on, and disposition of this case? What was the Court’s decision? Summarize the Chief Justice’s opinion in the case.);
* *Optional* assessment prompts (see Enrichments, below);
* *Boise School District Policy Manual*, Student Dress Code (for anticipatory set), source: <http://www.boiseschools.org/UserFiles/Servers/Server_508222/File/Board%20Policies/3000%20Students/3223.pdf>

Content specific vocabulary and terms include: (review of) Federalists, Democratic-Republicans, partisanship, the Revolution of 1800/Jeffersonian Revolution; (introduction of new vocabulary, including) original and appellate jurisdiction, writ of mandamus, midnight judges, the Judiciary Acts of 1789 and 1801, and impeachment (i.e., the case of Justice Samuel Chase, 1804). |
| **Methods and Instructional Strategies** |
| **Concept Prerequisites:**List all key concepts and terminology necessary for students to understand the concepts as well as meet the standards, goals, and objectives of the lesson**.**Key concepts and terms: The rule of law; the principle of judicial review; judicial decision, judicial opinion, dictum; precedent; (review) separation of powers, checks and balances; impartial, independent judiciary; (recurrent) challenges and questions related to interpretations of the U.S. Constitution (e.g., what exactly does “judicial activism” mean?). |
| **Anticipated Student Misconceptions:** Students might believe: the judgments of courts are always or automatically enforced (focus on separation of powers); political opposition/obstruction within and among the branches of government only weaken democratic institutions (checks and balances – “let ambition check ambition,” “co-equal” branches of government); authoritative statements by courts have the same weight as decisions (distinguish between decision and dictum). |
| **Introduction/Anticipatory Set:**What activity, if any, will be used to settle students and establish a context for the lesson? How will the lesson be opened (motivation) in order to capture student interest?Warm-up:* Distribute to students copies of a school district’s Dress Code (BSD, Policy 3223, p. 1).
* Call attention to the language, *“Students’ clothing and grooming shall be appropriate, shall not be revealing, and shall not be a disruption or interference to the educational process.”*
* Allow students a couple minutes to read the one page context of that statement.
* Ask students to identify an example of dress that may or may not be in violation of the code.
* Questions for discussion: How can students be certain about what is permitted and what is not permitted? What language in the code makes that determination difficult? How, and by whom, *should* uncertainty or ambiguity be resolved? In this instance, who *does* have authority to make the determination? What “external” factors might influence that decision (personal/community values, circumstances limiting students’ choices, tradition, a school official’s preferences or standards of morality/level of tolerance, etc.)?
* Emphasize the importance of language, textual context, intent, and variable, external factors when making an apparently simple, policy-based decision.
* Move from school policy to the highest law of the land, the Constitution of the United States.
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| **Instructional Activities:**Include the questioning techniques, grouping strategies, and pedagogical approaches employed in the lesson. What individual/team/full-class activities will be used to help students discover what they need to learn (suggest three, if practical)? If these are group activities, how will student groups be organized? What higher order thinking (H.O.T.) questions engage students in analysis and discussion?Activities:* Present a brief review of the political issues and rivalries giving rise to political parties in the early republic (direct instruction/interactive with Q/A);
* Introduce the video and explain the focus questions guide, then view the video in segments – interrupting to emphasize important content, explain events depicted in the film, address student questions (whole class, teacher-led);
* Use focus and learning outcome questions (above) to guide discussion, analysis, and conclusions drawn from the video’s content (small, heterogeneous groups, each with a designated leader who will encourage participation by all group members);
* Discuss and summarize groups’ conclusions as they relate to the key learning objectives (teacher-led; whole class).
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| **Differentiation According to Student Needs:**Address diverse student needs including students with an IEP or 504, cultural or linguistic needs. How can instruction be differentiated for diverse learners?Depending on a student’s background, he/she may need a review of the principle “rule of law,” and the importance of an impartial and independent judiciary (fair-minded, objective, impersonal, secure and free from outside influence or partisan agenda).For some students, the opening exercise (using a school’s dress code policy) might be expanded to increase readiness for the *Marbury v. Madison* case study. School policy-making and determinations of compliance may be more interesting, concrete, and relatable to students’ own experiences, especially for those students who enter class without as broad a background in US history as many of their peers.Graphics, tables, and brief video clips that depict a physical separation of the branches of government and that illustrate the intentional conventions meant to insulate judges from political considerations (expressed in trappings, formalities of procedure/decorum, life appointments, etc.) are particularly effective for students who have difficulty with some textual materials or audio-visual tracks that require close, sustained attention and prior, deep contextual knowledge.  |
| **Wrap Up- Synthesis/Closure:**How will the lesson be closed? Is a summary question appropriate?How can we best ensure that laws and consequential actions taken by agents of the government are within the bounds of the U.S. Constitution? What branch of government has such authority and what measures help ensure that those charged with that responsibility exercise their authority without prejudice or consideration of political interests?  |
| **Assessment (Formative and Summative):** Describe the plan to assess student mastery of the skills, content, and concepts taught in this lesson. Indicate the type of assessment most appropriate, or provide sample questions, entire tests, portfolio guidelines, and/or rubrics.Formative assessment includes short written responses to questions related to specific concepts and aimed at confirming students’ understanding of these concepts/knowledge of particular content. Instructor directed “checking for understanding” (CFU) will be integrated within each instructional activity, typically as interactive Q/A. Writing prompts will incorporate and relate directly to the lesson’s topic(s), stated instructional outcomes, and enduring questions. For registered and approved AP® courses, the College Board’s guidelines might be useful in constructing written assessments, both formative and summative. Student performance on summative assessments might be evaluated using adapted rubrics provided in *Rubrics for AP Histories + Historical Thinking Skills* (Long Essay Question Rubric), provided your district is in compliance with the College Board’s terms of use. Source: <https://secure-media.collegeboard.org/digitalServices/pdf/ap/rubrics-ap-histories-historical-thinking-skills.pdf>  |
| **Extension and Evaluation of the Lesson** |
| What enrichment activities/homework/follow-up activities will reinforce and extend student learning? What topics come next? How should the lesson be evaluated to assess strengths, weaknesses, areas to work on, and things to change?Enrichment: Did Marshall’s assertion of judicial review have precedence in American jurisprudence? Had the Supreme Court of the United States previously applied this principle to a case/other cases? Was it anticipated by the framers of the Constitution or the advocates of its ratification (independent student research)?Enrichment: Besides locking horns with Chief Justice Marshall, what specific actions of the Jefferson administration challenged Federalist power/policies (independent student research or optional assessment question)?Enrichment (discussion or brief class debate, given the speculative nature of the question): Why did Chief Justice Marshall first validate Marbury’s claim, since his decision rejected the Court’s jurisdiction in the case? Extension: The Judicial Conference of the United States has produced other films of cases important to the political development of the early republic. Select one of these (the trial of Aaron Burr, for example) and write an account of how the Court decided the case in point, and what significance that ruling had at the time and in the future (independent student research).Evaluate the Lesson: One reviewer mentioned the need to edit or speed up the video for students. Gauge the level of attention students present during the film and modify its use/edit the video, if necessary, for future lessons.  |