DIVING INTO APPELLATE CASES

Lesson Plan Summary

Objective

Students will be able to identify the facts, arguments and legal issues in cases to be heard at Oral Arguments at their high school as part of Courts in the Community.

Inquiry Questions

- What role does the appeals process play in ensuring people have access to justice?
- Is there anything about the process that seems unfair or inequitable?

Colorado Academic Standards

SS.HS.4.2.EOf. Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States
SS.HS.4.2.EOg. Understand the structure of the American judicial system, the process of judicial appointments and key court decisions, in both Colorado and the United States, that affect the system of checks and balances and interactions of the local, state, tribal, and federal systems.

Activities

Appellate Case activities

Materials

Courts in the Community cases and briefs, masking tape, worksheets

Grade Level

High School

Time

Two to three class periods before Oral Arguments, one to two after Oral Arguments.

Key Terms

Appellant: Party appealing the lower court's decision
Appellee: Party prevailing in the lower court and arguing, on appeal, against setting aside the lower court's decision
Appellate Brief: Establishes the legal argument for the party, explaining why the reviewing court should affirm or reverse the lower court's judgment based on legal precedent and citations to the controlling cases or statutory law.
Oral Arguments: Spoken presentation of a case before a court. Lawyers or parties representing each side in a dispute have 30 minutes to make their case and answer questions from Supreme Court justices and 15 minutes in the Court of Appeals.
Civil Case: A legal dispute between two or more parties, typically involving a claim for money or other compensation, rather than criminal charges. It arises when one party (the plaintiff) alleges that another party (the defendant) has caused them harm or violated their rights.
Criminal Case: A legal proceeding where the government accuses an individual of committing a crime and seeks to punish them. It's a legal action initiated by the state against someone who has allegedly violated criminal laws, which are laws designed to protect society.

Additional key terms will be included in the summary for each case.

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Lesson Instructions

Lesson Background

Note: Before teaching this lesson, make sure to teach the "You Be the Judge" lesson, which teaches about the appellate process and how cases are decided. This lesson builds on content learned in that lesson.

This lesson provides activities that prepare students to understand the cases they will hear at Oral Arguments. The goal is to help students understand what factors the appellate courts consider when they decide a case, the legal issues, the language used and more.

This is a lesson from our Courts in the Community curriculum. Find out more about this program (coloradojudicial.gov/courts-community) and our lessons (coloradojudicial.gov/community-and-educational-resources/lesson-plans).

Class Preparation

- This lesson offers a variety of activities, which you can tailor to the interests of your students. Some of the activities are designed to be done before Oral Arguments, others after Oral Arguments. Most have worksheets for students to complete. If you do the Continuum Activity, you will need masking tape to create a line. The six activities:
  - Activity One: Case Study Analysis
  - Activity Two: The Continuum
  - Activity Three: Mock Oral Arguments
  - Activity Four: Student Essays
  - Activity Five: Evaluating Oral Arguments
  - Activity Six: Simulating the Colorado Supreme Court
- You can likely do Activity One and Two in one class period. Activity Three will take one or two class periods. The others each take a class period.
- Note that you will be doing these activities twice, once for the civil case and again for the criminal case.
- Write lesson objective and key terms on the board/screen before class.
- Review Tips for Diverse Learners on p. 15 to determine the best way to engage your students with the content.
- More class preparation tips are listed for each activity.

Introduction *(1 minute)*

Begin by saying the following: *"For the next few days, we will be learning about the cases to be argued before the Supreme Court Justices. One thing to remember as we review: Supreme Court Justices usually take six factors into account when they decide a case. These include:*

- *The facts of the case, as set forth in the record presented on appeal*
- *Errors in the application of the laws*
- *The Colorado Constitution and the United States Constitution*
- *Statutory laws enacted by legislative bodies and legislative intent*
- *Precedents and/or persuasive authority*
- *The lawyers' written briefs and Oral Arguments ."*

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Lesson Instructions (con't)

ACTIVITY #1: CASE STUDY ANALYSIS

Read/Take Notes ***(30 minutes)***

Discussion ***(15 minutes)***

Hand out the Case Study Analysis worksheet for the civil case. You will be repeating this activity for the criminal case.

Read the case summary as a class, reviewing key terms, legal issues and more. Divide into small groups and do a read around, or have students read the summary on their own. Have students take notes on their Case Study Analysis sheet.

Discuss in groups or together what they see as the key facts, issues, arguments, their decisions and reasons for their decisions.

Take a Vote: Have the students vote on how they would rule. Ask a few to share their reasoning. You can skip this and go right to the continuum activity.

ACTIVITY #2: CONTINUUM ACTIVITY ***(10 minutes)***

Continuum: Tell students to stand on the masking tape line, with one end marking they would definitely rule for the appellant, the other end for the appellee. Explain the following to the students:

- The line is a continuum, which means they can place themselves on the line based on how strongly they agree with one side.
- They can't stand in the middle; they have to take a position.
- They need to have a reason for their position.

Ask a few students to share their reasoning. Encourage the class to consider whether the reasons change they ruling. If so, they can move to a different position on the line.

If space is an issue, you can ask each student to make an individual continuum by drawing a line on a sheet of paper and placing an X at the appropriate point representing the student's position. Ask the students to circulate and discuss their positions with students whose positions are similar and different from their own.

ACTIVITY #3: MOCK ORAL ARGUMENTS

Introduction ***(5 minutes)***

Explain to the students the following before doing this activity: "*We will be holding our own Supreme Court Oral Arguments, although it will be a shortened version. During actual Oral Arguments, each side has 30 minutes to present its case, including taking questions from the justices. The appellant argues first and has the option to "save" some minutes to use after the appellee has argued. For example, an appellant can use 25 minutes in the initial presentation, reserving the remaining five minutes to summarize or to address anything that arose during the appellee's 30-minute argument. The appellee cannot reserve any minutes to use later. Our Oral Arguments will allow each side four minutes.*"

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Lesson Instructions (con't)

ACTIVITY #3: MOCK ORAL ARGUMENTS

Then explain that they will be divided into the following groups:

- **Lawyer teams for the appellant and appellee, three to five people on each team.** These teams will prepare arguments to support their positions and make a presentation to the justices. Each side has four minutes for its presentation.
- **Seven justices, one presiding justice**. As the court hears the arguments, explain that they should write down questions during the arguments to ask afterwards. *(During Oral Arguments, justices often interrupt. However, that may be difficult for students to do so asking questions afterwards may make more sense.*) After the lawyers have spoken and questions have been answered, the presiding justice moderates a five-minute private meeting in which the justices express their views. At the end of the meeting, the justices take a vote and make a ruling. They will share their ruling with the class.
- **One Bailiff.** During, the Oral Arguments, the bailiff ensures that each side adheres to the time limits for each argument.

Preparing Arguments *(45 minutes)*

Divide the students into groups. Give students the worksheet for their group, making sure each student has one.

Hand back the Case Study Analysis worksheet they completed in Activity One, explaining they should use the information from their analysis of the case to prepare for their Mock Oral Arguments. The bailiff can join a team for this part of the activity.

Conducting Oral Arguments *(25 minutes)*

Conduct the mock Oral Arguments, using this schedule:

- Appellant's argument: 4 minutes
- Appellee's argument: 4 minutes
- Justices' questions: 5 minutes
- Justices' discussion and ruling: 5 minutes

DIscussion *(25 minutes)*

After the justices have issued a ruling, debrief with the following questions:

- What were the strongest arguments presented by the lawyer(s) for appellant? What arguments would have improved this side of the case?
- What were the strongest arguments presented by the lawyer(s) for appellee? What arguments would have improved this side of the case?
- What were the key questions asked by the justices? What other questions, if any, should they have asked? During their meeting, what arguments did they consider? Did they disregard any arguments?
- Does the justices' decision have a societal impact or benefit? Explain.
- Do you agree with their decision? Explain your answer.

Collect student worksheets and Case Summary. You will use these again in Activity Four!

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Lesson Instructions (con't)

ACTIVITY #4: STUDENT ESSAYS *(Homework + In-class peer review)*

Ask students to write a short essay supporting or refuting the statement:

Our student Supreme Court made a wise decision in the case of _____ .

Hand out the "Student Instructions" worksheet for this activity to help students organize their essays.

Tell students to write their student ID number on the essay and NOT their names so their essays are anonymous and can be evaluated more objectively by their peers.

After students turn in their essays, schedule a time to do an in-class review of the essays. Distribute copies of the students' essays along with the "Student Critique" worksheet.

Note: This activity can be repeated after the Colorado Supreme Court Oral Arguments at your school and then again after the court issues its opinion.

Collect student worksheets and Case Summary. You will use these again in Activity Six!

ACTIVITY #5: EVALUATING ORAL ARGUMENTS *(2 hours)*

Right before Oral Arguments, pass out **two** Oral Arguments worksheets, one for each case. Tell students to take notes. Collect at the end.

ACTIVITY #6: SIMULATING THE SUPREME COURT *(40 minutes)*

Note: This activity should be conducted after Oral Arguments at your school.

Students will be simulating two parts of the appellate court decision-making process that are very important but unseen by the public: meeting to discuss the case and writing an opinion.

Hand out to students the notes they took during actual Oral Arguments, the case summary, the "Simulating the Supreme Court" worksheet, and, if desired, a link to the sample Colorado Supreme Court decision.

Divide students into groups of three or five (needs to be an odd number.)

In their groups, the students should discuss the questions on the worksheet. Encourage disagreement.

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DIVING INTO APPELLATE CASES

Lesson Instructions (con't)

ACTIVITY #6: SIMULATING THE SUPREME COURT (CON'T)

Discussion
(15 minutes)

After each student has shared their ideas within their groups, an informal vote should be taken within the group. The majority is responsible for a majority opinion; the minority is responsible for a dissenting opinion.

Walk around the classroom, keeping track of individual and group voting patterns.

Have groups compare and contrast opinions. Take a final class vote.

EXTENSION ACTIVITIES:

Writing An Opinion

Instruct each student to write and submit a brief opinion (about two pages), in support of their vote, stating:

- A short recap of the facts of the case;
- The key arguments of the case;
- The student's reasoning toward a solution of the arguments (why the student decided that way); and
- The student's decision based upon his or her reasoning.

You may want to have them refer to a Supreme Court opinion online, such as ***The Nonhuman Rights Project v. Cheyenne Mountain Zoo*** opinion: https://research.coloradojudicial.gov/en/vid/1067527556

Listening to Oral Arguments

As preparation for Oral Arguments, you may want to have students watch arguments in ***The Nonhuman Rights Project v. Cheyenne Mountain Zoo*** case. Go to our website and scroll down on the page under "Cases you may be interested in": https://www.coloradojudicial.gov/court-appeals/live

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Activity #1 Worksheet: Case Study Analysis

Read the Case Summary for _____

Find the Facts

List the facts of the case. Don't make up any information that is not provided. What are the most important facts? Are any important facts left out of the case?

Identify the Issues

Are any rights in conflict in this problem? What questions or issues does this case ask the court to answer? State the question or questions the case raises.

List the Arguments

- Appellant Arguments

- Appellee Arguments

Give Decisions and Reasons

Make your decision and give the reasons that support your decision. If you are working in a group, you might discuss your decision and reasoning with other group members and listen to their thoughts.

- Decision

- Reasons for your decision

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Activity #3 Worksheet: Mock Oral Arguments

Lawyer Teams' Instructions

When preparing for an oral argument, lawyers review the briefs and summarize the case and their arguments. They prepare themselves to answer questions from the Supreme Court justices.

For this Mock Oral Argument, your team should complete the information below using information from the Case Study Analysis worksheet you completed during Activity One and the Case Summary. You will be presenting this argument to the justices. Your presentation must not exceed four minutes.

What are some of the main arguments you will make for your side?

What might the opposing side argue? What will you say in response?

What questions might the justices ask?

Prepare an argument to support your position and write it below. Decide who will present each argument during Mock Oral Arguments.

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Bailiff's Instructions

A bailiff in an appellate court is a court employee who keeps order in the courtroom. The bailiff is generally one of the judge's law clerks. Bailiffs keep track of lawyers as they enter the courtroom, run the tape recorder and perform other duties. A trial court bailiff keeps order in the courtroom and is in charge of the jury. There are no juries at Supreme Court or Court of Appeals Oral Arguments.

For this Mock Oral Argument, you will be responsible for:

- Keeping order in the courtroom.
- Ensuring each side adheres to the time limit (four minutes per presentation).

During the Oral Argument preparation time, participate in preparing arguments with one of the Lawyers' Teams.

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Activity #3 Worksheet: Mock Oral Arguments

Justices' Instructions

When preparing to hear Oral Arguments, Colorado Supreme Court Justices review documents about a case with their law clerks and identify questions they want to ask the lawyers. These include previous court decisions, legal precedents and more.

You will do this as well. Assign one person to be the presiding judge. Have that person take notes. That person will also lead the discussion about how you should rule.

To prepare for Mock Oral Arguments, discuss together the following using the worksheet completed in Activity One and the Case Summary.

What don't you understand about the case?

What facts do you want clarified?

Which of their clients' actions would you like the lawyers to justify or explain?

Which of the cases you read about in the case summary could be applied to this case?

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Activity #4 Worksheet: Essay Instructions

Write a short essay supporting or refuting the statement:

Our student Supreme Court made a wise decision in the case of _____.

In organizing your essay:

- Restate the decision of the court and indicate whether you support or disagree with the decision.
- Briefly summarize the case.
- List two facts that support your position.
- Cite a previous court case that supports your position.
- Develop an argument that supports your position.
- Develop the reasoning behind your argument.

Do not sign your name. Instead, use your student ID number instead.

All essays will be read and critiqued by three students using the student critique sheet.

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Activity #4 Worksheet: Student Critique

Essay No. _____

- Does the essay support/disagree (circle one) with the decision of the court?

- Is the case summarized? Circle one: Yes/No

Comments

- Are relevant facts that support the statement presented? Circle one: Yes/No

Comments:

- Is a previous court case cited? Circle one: Yes/No

Comments:

- Is an argument that supports the statement given? Circle one: Yes/No

Comments:

- Is reasoning behind the argument given? Circle one: Yes/No

Comments:

- On the essay, mark any spelling, punctuation or grammatical errors.

- What is the best part of the paper?

- What needs improvement?

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Activity #5 Worksheet: Evaluating Oral Arguments

Use this worksheet to take notes during the actual Supreme Court Oral Arguments. Write down key points and arguments made. You will refer to these notes in a later activity.

Case Name:

Your Name:

Date:

Appellant's Arguments	**Appellee's Argument**
1.	**1.**
2.	**2.**
3.	**3.**
4.	**4.**
5.	**5.**

Justices Questions

Your Decision

Your Explanation

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Activity #6 Worksheet: Making a Decision

In your group, using the case summary and notes from Oral Arguments, discuss the following and, as needed, write down responses.

What did you agree with or disagree with from each attorney?

What were some of the questions from the justices?

How would you decide the case?

After your discussion, take a vote within the group whether the justices should side with the appellant or appellee. The majority is responsible for a majority opinion; the minority is responsible for a dissenting opinion. Then discuss with the class.

If assigned: At home, write and submit a brief opinion (about two pages), in support of the way they voted, stating the following. You can refer to a Supreme Court Opinion online. ***The Nonhuman Rights Project v. Cheyenne Mountain Zoo*** might be of interest:
https://research.coloradojudicial.gov/en/vid/1067527556

1. A short recap of the facts of the case;
2. The key arguments of the case;
3. The student's reasoning that would lead to a certain decision in the argument; and
4. The student's decision based on his or her reasoning.

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TIPS FOR DIVERSE LEARNERS

- Post key terms on the board or on the screen for students to revisit.
- Introduce key vocabulary the day before the lesson and review before teaching the content, either through a handout or a document you create using your school's virtual classroom tool.
- Consider having students make a drawing or sketch about the concepts being taught, which could be posted in the room to add with learning. Prompt students to use these drawings and other visuals to remember vocabulary words or skills that have been taught.
- Combine students with varying learning abilities, interests, language proficiencies, or other skill strengths into groups of two or more for the reading activity to provide peer support throughout a lesson. You may want to alter the makeup of working groups according to the activity at hand, e.g. sometimes heterogeneous grouping is appropriate, where at other times, same-language or more homogenous groups may work best.
- Provide a T-chart or graphic organizer for note taking, or project one as you are teaching the content to help students track on the content.
- Allow students to demonstrate their knowledge through a range of options, such as written responses, presentations, projects or oral assessments.
- Empower students to share their thoughts and experiences about how the concept being taught has impacted Americans throughout history.
- Work with a partner or in a small group.
- Assign roles to students to help them in completing activities.
- Add pictures, photos or other visual aids to help explicitly teach skills.
- Try different discussion techniques, including jigsaw, fishbowl or wrap around.

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EDUCATIONAL RESOURCES

Colorado Judicial Department Resources

Lesson Plans: coloradojudicial.gov/community-and-educational-resources/lesson-plans
Supreme Court or Court of Appeals tours: cjlc.colorado.gov/book-a-tour-of-the-ralph-l-carr-judicial-center
Visit the Judicial Learning Center: cjlc.colorado.gov

Judicial Department Information

Colorado Supreme Court: coloradojudicial.gov/supreme-court
Colorado Court of Appeals: coloradojudicial.gov/court-appeals
Map of Colorado Judicial Districts: coloradojudicial.gov/colorado-judicial-district-map
Supreme Court Library: cjlc.colorado.gov/colorado-supreme-court-library

Other Educational Resources

Glossary of Legal Terms: uscourts.gov/glossary
Ben's Guide to the U.S. Government: bensguide.gpo.gov
Bill of Rights Institute: billofrightsinstitute.org
Center for Civic Education: civiced.org
Digital Civics Toolkit: digitalcivicstoolkit.org
iCivics: vision.icivics.org
Colorado Council for the Social Studies: coloradocouncilforthesocialstudies.org
Annenberg Guide to the Constitution: annenbergclassroom.org/constitution
Constitution Annotated: constitution.congress.gov
The Constitutional Sources Project (ConSource): consource.org
Teach Democracy: teachdemocracy.org/curriculum
·The Rendell Center for Civics and Civic Education: rendellcenter.org

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