



UNDERSTANDING THE FIRST AMENDMENT THROUGH *BARNETTE*

Lesson Plan for Grades 7-12

Lesson Plan: Understanding the First Amendment Through *Barnette*

Grade Levels: 7th -12th Grades

Duration: 45- 60 minutes

Overview:

In this lesson, students will explore how the First Amendment protects freedom of speech and religion, focusing on the landmark Supreme Court case *West Virginia State Board of Education v. Barnette* (1943). Students will analyze Justice Robert H. Jackson's majority opinion, which defended the rights of students who refused to salute the flag on religious grounds. Through discussion, role-play, and reflective activities, students will connect Jackson's ideas about citizenship, loyalty, and civic responsibility to contemporary situations in their own lives.

Learning Goals

- Identify the five freedoms protected by the First Amendment.
- Describe the *Barnette* case and the constitutional question it addressed.
- Analyze Justice Jackson's reasoning and the balance between government authority and individual rights.
- Reflect on the importance of civic responsibility and protecting rights in a democracy.
- Apply First Amendment principles to real-world scenarios.

Learning Standards

- New York State
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- Pennsylvania
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Materials Needed

- For Students:
 - Excerpts from the *Barnette* opinion (student-friendly version)
 - Graphic organizer for note-taking
 - Scenario cards for role-play activity
- Teacher Resource: Completed Graphic Organizer
- Teacher Resource: First Amendment Overview
- Teacher Resource: *West Virginia State Board of Education v. Barnette* Overview
- Teacher Resource: Guided reading of excerpts from *Barnette* opinion



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Lesson Flow

1. Introduction (3-5 minutes)
 - a. Warm-up questions
 - i. What does it mean to have freedom of speech?
 - ii. Can a government force someone to say something or do something against their beliefs?
 - b. Handout graphic organizer for students to take notes
2. The First Amendment (5 minutes)
 - a. Explain the First Amendment and how it provides five freedoms (see Teacher Resource)
3. *West Virginia State Board of Education v. Barnette* (10 minutes)
 - a. Explain context of the case, highlight the constitutional question, and overview of outcome (see Teacher Resource)
 - b. Give students excerpts of Jackson's majority opinion and guide them through reading it (see Teacher Resource)
4. Small Group Analysis (10 minutes)
 - a. Assign roles (use multiples of each role and make as many of each group as required or make two big groups)
 - i. Group A: The Reluctant Student, The Concerned Parent, The Classmate, and The Community Advocate
 - ii. Group B: The School Official, The Teacher, The State Official, and The Veteran
 1. Groups work to create their arguments using their notes – groups should have a leader, a recorder, a speaker, and a fact checker
 - a. Arguments should be 1 minute long and make their group's point to the best of their ability
 - b. Each group presents its position and defends it using constitutional reasoning
5. Wrap-Up (5-10 minutes)
 - a. Discuss
 - i. What challenges exist when protecting individual rights?
 - ii. How do individual citizens help sustain a democracy?
 - iii. Why did Jackson consider protecting minority rights essential for democracy?
 - iv. Can you think of a modern situation where people might face similar challenges?
 - b. Extension
 - i. Write a brief essay or journal entry applying Jackson's principles to a current event or school policy.



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Assessment/Evaluation

- Completion of graphic organizer
- Participation in class discussions
- Possible reflection essay/journal entry



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Teacher Resource: First Amendment Overview

The First Amendment to the United States Constitution protects several fundamental rights that are essential for a free and democratic society. These rights limit the government's power and ensure that individuals can express themselves, practice their beliefs, and participate in civic life.

Text of the First Amendment

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Five Core Freedoms Protected

1. Freedom of Religion
 - a. Establishment Clause: The government cannot establish an official religion or favor one religion over another.
 - b. Free Exercise Clause: Individuals are free to practice their religion—or choose not to—without government interference.
2. Freedom of Speech
 - a. Individuals can express opinions publicly without government censorship.
 - b. Includes spoken, written, symbolic (gestures, art), and some forms of protest.
 - c. Limitations: Speech that incites violence, threats, or lawbreaking may not be protected.
3. Freedom of the Press
 - a. The press can publish information, opinions, and news without government control.
 - b. Supports accountability and informed public discourse.
4. Freedom of Assembly
 - a. Citizens can gather peacefully for protests, meetings, or demonstrations.
 - b. Government cannot ban groups from meeting, as long as they remain nonviolent.
5. Right to Petition
 - a. Citizens can request changes or raise concerns to government officials without fear of punishment.
 - b. Includes letters, petitions, protests, and online communications.



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Why the First Amendment Matters

- Protects individual autonomy and conscience.
- Ensures minority voices are heard, even if unpopular.
- Provides a foundation for democracy, accountability, and civic engagement.
- Balances government authority and personal freedom, as emphasized by Justice Robert H. Jackson in *Barnette*.

Connection to *Barnette*

- The *Barnette* case specifically addressed freedom of speech and freedom of religion.
- Justice Jackson argued that the government cannot compel individuals to express beliefs or participate in rituals, even if intended to promote patriotism.
- Jackson emphasized that protecting minority rights strengthens democracy, a principle students can apply to current events.

Classroom Tips

- Use examples students can relate to: school rules, social media, protests, holidays.
- Highlight the difference between protected expression and illegal actions.
- Ask students to consider why even unpopular opinions deserve protection.



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Teacher Resource: *West Virginia State Board of Education v. Barnette*
Overview

Case Background

- During World War II, the West Virginia State Board of Education required all public-school students to salute the American flag and recite the Pledge of Allegiance daily.
- Students who refused on religious grounds, including Jehovah's Witnesses, faced expulsion, and their parents could be fined.
- The case reached the U.S. Supreme Court, challenging whether the law violated the First Amendment.

Key Constitutional Question: Can the government compel individuals to express beliefs or participate in patriotic rituals, even in public schools?

- Focus on freedom of speech and freedom of religion.
- Examines the limits of government authority over students and minors.

Supreme Court Decision

- Date: June 14, 1943
- Outcome: The Court ruled 6–3 in favor of the students, striking down the law.
- Majority Opinion: Written by Justice Robert H. Jackson.

Justice Jackson's Reasoning

- Compelled Speech: The government cannot force individuals to express beliefs they do not hold.
- Protection of Minority Rights: Even unpopular or minority viewpoints must be protected to ensure democracy.
- Education and Citizenship: True loyalty cannot be coerced; it must be voluntary and genuine.
- Importance of Conscience: Schools must respect the conscience of students, even when societal pressures push conformity.

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." – Justice Jackson

Key Takeaways for Students

- The First Amendment protects individuals from compulsory expression.



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- Minority rights are essential to democracy.
- Justice Jackson's opinion emphasizes that loyalty and patriotism cannot be imposed.
- The case remains a cornerstone for freedom of speech and religion in schools.

Classroom Connections

- Compare the situation in 1943 with modern examples of free speech or protest in schools.
- Discuss what it means to be a citizen who exercises rights responsibly.
- Encourage students to reflect on situations where conscience conflicts with authority.



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Teacher Resource: Guided reading of excerpts from *Barnette* opinion

Excerpt 1: Compelled Speech

"To sustain the compulsory flag salute we are required to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what is not in his mind..."

- Teacher Notes:
 - Jackson is framing the central issue: Can the government force speech?
 - Key idea: The Bill of Rights protects individuals from being compelled to express beliefs they do not hold.
- Discussion Prompts:
 - What does "compel him to utter what is not in his mind" mean?
 - How does this relate to students who refuse to salute the flag?
 - Can you think of a modern example where someone might be forced to express something against their beliefs?

Excerpt 2: Government Power vs. Individual Freedom

"To enforce those rights today is not to choose weak government over strong government. It is only to adhere as a means of strength to individual freedom of mind in preference to officially disciplined uniformity for which history indicates a disappointing and disastrous end..."

- Teacher Notes:
 - Jackson emphasizes that protecting rights strengthens democracy, rather than weakens the state.
 - Highlights tension between authority and personal conscience.
- Discussion Prompts:
 - Why does Jackson think protecting freedom of mind makes the government stronger?
 - How might officials argue differently?
 - How does this idea apply to modern debates about civic or political expression?

Excerpt 3: Bill of Rights as a Shield

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials... Authority here is to be controlled by public opinion, not public opinion by authority."

- Teacher Notes:



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- This reinforces that certain rights cannot be overridden by popular vote or political pressure.
- Jackson links legal protections to the concept of active citizenship.
- Discussion Prompts:
 - What rights are “beyond the reach of majorities and officials”?
 - Why does Jackson say public opinion should control authority, not the other way around?
 - How does this connect to the responsibilities of citizens?

Excerpt 4: Intellectual Individualism

“We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes...”

- Teacher Notes:
 - Students can explore the idea that freedom includes accepting dissenting views, even if they seem unusual.
 - Ties to Jackson’s broader view of pluralism as essential for democracy.
- Discussion Prompts:
 - What does Jackson mean by “intellectual individualism”?
 - How might this apply to minority rights today?
 - Why is it acceptable for some actions to be “eccentric” or “abnormal” in a free society?

Excerpt 5: The “Fixed Star”

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion...”

- Teacher Notes:
 - “Fixed star” = fundamental guiding principle.
 - Jackson’s language is memorable and ideal for student discussion and quotation.
- Discussion Prompts:
 - What is the “fixed star” principle?
 - How does it protect students and minorities?
 - Can you think of a situation today where this principle might be tested?

Excerpt 6: Government Limits



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"We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit..."

- Teacher Notes:
 - Jackson concludes that government overreach violates the First Amendment.
 - Connects directly to lesson goal: students must understand limits on government authority and responsibilities of citizens to protect rights.
- Discussion Prompts:
 - What does Jackson mean by "sphere of intellect and spirit"?
 - How does this relate to the broader purpose of citizenship in a democracy?
 - How can students practice being responsible citizens today?

Teacher Tips for Classroom Use

- Break students into small groups, assigning each excerpt to a group for guided analysis.
- Encourage highlighting key phrases for discussion.
- End with a whole-class discussion tying the excerpts back to civic responsibility and the First Amendment.



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Teacher Resource: Completed Graphic Organizer for note-taking

Freedom

Religion

- Establishment Clause - the government cannot establish an official religion or favor one religion over another
- Free Exercise Clause - individuals are free to practice their religion or choose not to without government interference

Freedom

Speech

- individuals can express opinions publically without government censorship
- includes spoken, written, symbolic (gestures, art), and some forms of protest
- limitations: speech that incites violence, threats, or lawbreaking may not be protected

Freedom

Press

- the press can publish information, opinions, and news without government control
- supports accountability and informed public discourse

Freedom

Assembly

- citizens can gather peacefully for protests, meetings, or demonstrations
- government cannot ban groups from meeting, as long as they remain non-violent

Freedom

Petition

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- includes letters, petitions, protests, and online communications



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Background and Context

- West Virginia required all public school students to salute the flag and recite the Pledge of Allegiance.
- Some students, members of Jehovah's Witnesses, refused due to their religious beliefs. The case challenged whether the state could compel students to participate.

Main Characters

- Students & Families: Jehovah's Witness students and their parents
- School Officials / State: West Virginia Board of Education, state authorities enforcing the flag salute
- Supreme Court Justices: Majority opinion written by Justice Robert H. Jackson

Issue/Question before the Court

- Can a state require students to salute the flag and recite the Pledge of Allegiance against their religious beliefs without violating the First Amendment?

School/State's Argument

- Saluting the flag teaches patriotism and loyalty to the country
- Uniformity in schools promotes order and discipline
- Government has the authority to promote national unity, especially during wartime

Student/Family's Argument

- Compulsory saluting violates freedom of speech and religion
- Forcing students to express beliefs they do not hold is coercion
- Individual rights should be protected from majority pressure

Court's Decision

- The Court ruled in favor of the students, holding that the state cannot force students to salute the flag or recite the Pledge of Allegiance. Justice Jackson wrote the majority opinion.

Impact / Significance

- Strengthened protection of individual rights in schools
- Established precedent that the government cannot compel speech
- Reinforced that minority rights are protected even when unpopular
- Influenced later cases on free speech and religious liberty



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Student Resource: Excerpt from *Barnette* opinion

West Virginia State Board of Education v. Barnette (1943)

Excerpt: Majority Opinion, Justice Robert H. Jackson

To sustain the compulsory flag salute we are required to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what is not in his mind. . . .

The question which underlies the flag salute controversy is whether such a ceremony so touching matters of opinion and political attitude may be imposed upon the individual by official authority under powers committed to any political organization under our Constitution. . . .

To enforce those rights today is not to choose weak government over strong government. It is only to adhere as a means of strength to individual freedom of mind in preference to officially disciplined uniformity for which history indicates a disappointing and disastrous end. . . .

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. . . . We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority. . . .

We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.



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Student Resource: Graphic Organizer for note-taking

Freedom

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Freedom

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Background and Context	<ul style="list-style-type: none">••
Main Characters	<ul style="list-style-type: none">••
Issue/Question before the Court	<ul style="list-style-type: none">••
School/State's Argument	<ul style="list-style-type: none">••
Student/Family's Argument	<ul style="list-style-type: none">••
Court's Decision	<ul style="list-style-type: none">••
Impact / Significance	<ul style="list-style-type: none">••



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The Reluctant Student

Role: Student refusing to participate in the school's daily pledge of allegiance.

Scenario: Your state requires everyone to say the Pledge of Allegiance every morning at school. You feel this goes against your religious beliefs.

Guiding Questions:

- Which First Amendment freedoms are involved?
- What is your argument for refusing?
- How might the school respond?
- How does Jackson's opinion in *Barnette* support your position?

The Concerned Parent

Role: Your child is the student refusing to say the pledge. **Scenario:** Your child tells you that they cannot say the pledge because of religious beliefs. The school has expelled your child, and you are at risk of being arrested for truancy.

Guiding Questions:

- How would you advocate for your child's rights?
- Which First Amendment protections apply?
- How would you use Jackson's reasoning to support your child?

The School Official

Role: Principal enforcing the Pledge of Allegiance law.

Scenario: You believe saying the pledge is important to teach loyalty and respect for the country.

Guiding Questions:

- How would you explain the school's position?
- Can the government/school require speech?
- How might Jackson respond to your argument?

The Teacher

Role: Teacher in the classroom.

Scenario: The school district instructs you to require students to participate in the pledge every morning or to send them to the principal's office.

Guiding Questions:

- How should you balance state law and school rules with First Amendment rights?
- Can the government/school require speech?
- How would Jackson advise about government authority v. individual freedoms?



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The Classmate

Role: Student with no strong opinion, but witnessing the situation.

Scenario: You see some classmates refusing to say the pledge. You're not sure if you should participate, say something, or do nothing.

Guiding Questions:

- How could your actions impact others?
- What is the balance between peer pressure and respecting rights?
- How does this relate to civic responsibility and loyalty?

The Community Advocate

Role: You are a local religious leader.

Scenario: Members of your congregation are included in the students refusing to say the pledge.

Guiding Questions:

- How does the First Amendment protect these students?
- How can you support their rights in the school context?
- How would Jackson likely view your advocacy?

The State Official

Role: State legislator who passed the law.

Scenario: You believe saying the pledge is important to teach loyalty and respect for the country. You are especially passionate about this, given that the country is at war.

Guiding Questions:

- How would you explain the state's position?
- Can the government require speech?
- How might Jackson respond to your argument?

The Veteran

Role: You are a military veteran who fought in a previous war.

Scenario: You believe that reciting the pledge teaches loyalty and honors those who serve the country. You strongly feel that students should participate.

Guiding Questions:

- How would you defend your position?
- How does this connect to government or community authority?
- How might Jackson respond to your argument?