

Flint Community Schools
United States History
Unit of Study –
Grade 9

Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution?

History/Social Studies Grade Nine

“One starts with the end – the desired results (goals or standards) – and then derives the curriculum from the evidence of learning (performances) called for by the standard and the teaching needed to equip students to perform.”

- Wiggins & McTighe¹

The following unit design is based on the work of Grant Wiggins and Jay McTighe as explained in their book entitled *Understanding by Design (UBD)*. UBD is a standards-based backwards design process which leads to the development of big ideas and utilizes student work to guide teaching.

Why do we advocate for “Backwards Design”? Standards-based instruction and the Michigan history themes project ask teachers to “begin with the end in mind.” Beginning by thinking about the expected outcomes and designing an assessment before planning and lessons or drawing up learning experiences makes it easier to clarify our goals for students and ensure greater alignment between our lessons and assessments. It is a process that helps us determine whether students are able to master rigorous, grade appropriate work.

What is “Backwards Design”? This way of thinking starts with unpacking the content standards to focus on the big ideas and develop an essential question. The big idea is followed with development of appropriate assessments and evidence (such as an assessment that measures the student performance on the standards, rubric/scoring guides and anchor papers). Once the expectation for learning and the assessments are in place, the next step is to build a standards-based unit through carefully constructed learning experiences. The planning template following this cover letter includes our thinking process as we began this unit.

Why start with assessment? Starting with identifying what we want students to know and be able to do at the end of the unit ensures that we are clear about what we consider acceptable evidence of learning before we start teaching to guide our planning of teaching experiences. This way of looking at curriculum also allows us to build in checks for understanding during the course of our teaching so that we may adjust our instructional methods and content to meet the needs of the students, making sure that they are learning before we reach the final assessment.

How was the content chosen? During the summer of 2006 local and national scholars joined together in Flint to share their expertise through the Teaching American History Project. Several Flint Community Schools teachers attended the sessions, and suggested key knowledge and skills students should learn in a new unit of study. The materials in this unit were developed using some of the work from this summer as well as my own research as author. I discovered that several of the internet sites, such as Colonial Williamsburg and PBS, that have the primary documents and articles in this unit also

¹ Wiggins, G. and McTighe, J. (1998) *Understanding by design*. Alexandria, VA: Association for Supervision and Curriculum Development, p. 8.

offer recording of songs and images pertinent to the unit. These were not included in the unit specifically since not everyone has the technology to share these with their class. Those interested can visit these sites for supplemental materials.

Flint teachers familiar with readers and writers workshop will recognize the instructional strategies in the unit. I adapted a key workshop strategy of helping students think of themselves as writers. In this unit, students are to be taught how to think as historians in an authentic manner. The units expect students to learn how to read nonfiction, keep a historian's notebook and share their thinking with peers on a daily basis and in a concluding performance assessment as a means to building a discourse community. Since students may be new to this type of thinking the lessons may take longer while they familiarize themselves with the process.

In this unit you will find:

- (1) an overview of the unit;
- (2) identification of the standards to be addressed and development of what students should know and be able to do;
- (3) the big idea/essential questions to guide critical thinking and deepen understanding;
- (4) ten fifty-minute lessons; and
- (5) the final assessment and scoring guide (anchor papers will come over time).

I look forward to hearing about your success in using this unit.

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Perry and Associates, Inc.
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Flint Community Schools²
History/Social Studies Unit One
Based on the work of *Understanding by Design* – McTighe & Wiggins

Course: History/Social Studies Grade Nine

Unit Title: Constitutional Issues

Essential Question: Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?

Identify Desired Results:

<i>History Themes Addressed:</i> Theme 3: Citizens’ needs, values and beliefs can shape governmental policies and institutions. (Values, Beliefs, Economics, Political Ideas and Institutions)
<i>Content Standards:</i> I.1HS3, I.2HS1, I.2HS3, I.3HS3, I.4HS1, II.4HS4, III.1HS2, III.2HS2, III.4.HS1, IV.3HS4, IV.4HS1, IV.4HS4, VI.1HS1 (Benchmark alignments copied from History Themes Project website)
What should students <i>know and be able to do</i> ? <ul style="list-style-type: none">• How to read an article or primary source document and make meaning through active interaction with the text• How to work with ideas across texts, gathering and sorting information with patterning• How to shape ideas into writing• How to participate in a debate
What specific insights about <i>big ideas</i> do we want student to end the unit with? <ul style="list-style-type: none">• Students will analyze the Preamble to the Constitution as well as the 13th, 14th, and 15th Amendments to understand the ideals and rights they protect and do not protect• Students will compare a sample paper to the scoring guide to understand the qualities of writing within the content of history• Students will study the Jim Crow laws to understand the response of many states to the amendments• Students will study <i>Plessy vs. Ferguson</i> to understand the origin of the term “separate but equal” and connect this concept to the Constitution• Students will participate in a debate and write an essay to show their understanding of the content
What <i>essential question</i> will frame the unit to spark critical thinking about content? Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?

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Determine Acceptable Evidence:

Summative Assessment: What key performance task(s) can students engage in to indicate understanding?

On the last day of the unit students will use their learning from the previous days to address the essential questions and big ideas in writing. They will participate in a historian's forum with papers they have prepared to share.

Ongoing Assessment: What evidence will be collected along the way to check for understanding, knowledge, and skill?

After the end of each lesson teachers can collect the text to assess for evidence of literacy work and also the handouts to assess for understanding of content.

Rubrics: Please see scoring guide in unit

Plan Learning Experiences:

What learning experiences and instruction will promote the desired understanding, knowledge, and skills?

Please see attached lessons 1 – 6

NOTE: Teachers may wish to extend the unit by having students analyze the 1954 U.S. Supreme Court decision, *Brown v. Board of Education*, and the launching of the Civil Rights movement of the 1950s and 1960s.

* Language and process of planning taken from the work of McTighe & Wiggins in *Understanding by Design*

Explanation of Instructional Strategies:

Partnerships: Partnerships are typically pairs of students, although an occasional group of three is sometimes necessary due to odd numbers, who were placed together by the teacher based on factors such as ability, temperament, common interests, etc. The students work together for the duration of the unit so that they form an academic bond by learning about how a peer thinks. Students working in partnerships are equal since they both have ideas to offer and share in all work. It is critical that students speak in partnerships and learn how to function in an academic community, using questions or defending statements/opinions and incorporating vocabulary. In a whole group setting only one student can speak at a time, but with partnerships half the class can speak at a time and the other half has to respond, thereby increasing the amount of academic talk and engagement in the room. You may need to periodically teach students how to work in partnerships, such as how to ask a question or even how to properly sit next to your partner and share ideas so that everyone can hear their partner.

Shared Reading: This refers to a time when each student has access to a copy of the text that the teacher also has displayed. The teacher has chosen a literacy teaching point based on students needs and the text offers an opportunity to teach this point as well as appropriate content. The teacher explains the teaching point to the students and models the reading behavior, interacting with the text in a specific manner. The students follow

along and practice the strategy with the same text. While the students practice and also learn the content the teacher assesses their learning to determine if they can incorporate the strategy into other texts and content.

Historian's Notebook: Many historians use a notebook as a way to record their notes and thoughts while reading. This notebook also functions as a place to draft thinking into paragraphs and multiple paragraphs for later extended papers and articles. It is critical that students learn how to develop and maintain this notebook so that they learn the importance of their own thinking and how to use the work of reading and talking with a partner and peers in extended writing. Often students fail to see the connectedness of each day's lesson as it grows toward a larger whole and they fail to see the value of their own thoughts as they share with others. The notebook becomes a tool for recording those thoughts that are of value to be incorporated and developed and also as a reflective tool so that students can learn to see the connectedness of lessons across the year.

If lessons call for a handout as a way of teaching student to organize their thinking and notetaking, teachers will either have the students tape the handout into the notebook or not use the handout and copy the format of the handout into the notebook for that lesson.

Marking the text: While students read any text they should mark the text with their thinking, asking questions for clarification and writing inferences near the sentence(s) that sparked that thought. In doing this they can better track their own comprehension and identify when their learning breaks down. The "markings" also act as a record of thoughts and learning to be used for preparation for a discussion with a partner, small groups, or with the whole class. When students write it often helps them to refer back to the portions of the text and re-read their thinking to help them decide which quotes to incorporate into their writing or to summarize the main points of a document.

In addition to working with making meaning through marking the text with questions and inferences, it is critical that students recognize new words and use the context of grammar, context cues, etc. to determine the meaning of the new word and to write that meaning above the new word. This action not only aids in comprehension but builds a personal and class-wide word study opportunity. I suggest that you collect these words and their meanings from students and have them post the words, their meanings, the sentence(s) with the word from the text and a new sentence written by the student using the word to post in the classroom. When students write and speak they need to refer to these posted words and practice incorporating them into spoken and written language.

Flint Community Schools Grade 9 Unit of Study Historical Debate and Call for Papers

You have been selected to participate in a highly regarded debate of experts from your historical field. We ask that you prepare a paper based on the topic explained below and attend the debate ready to argue your opinion and engage in rebuttal with your peers.

Paper Preparation

The Flint Community Schools is interested in understanding the term “separate but equal” in depth, particularly the history of the term, its origins and effects upon society. When developing the paper, you are to analyze constitutional issues on Civil Rights from 1880-1900 in Supreme Court cases, in state laws, in specific portions of the Constitution such as amendments or the Preamble and their connection to this term, and provide your thoughts regarding the validity of “separate but equal.”

In addition to writing your paper, describe the process you used as a historian to write this paper. What did you have to do first, second, and so on until you finished.

You may refer back to your historian’s notebook and also the documents used in class. The scoring guide introduced in a previous lesson is the same that scorers will use for your paper.

Write your response on separate paper.

Debate

Please refer to the accepted terms and process of debate included below. You may end up on the pro or con side of the topic stated above so be aware to prepare both sides of the argument.

Debate Topic:

Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution?

Basic Terms:

Debate: a game in which two opposing teams make speeches to support their arguments and disagree with those of the other team.

Resolution: the opinion about which two teams argue.

Affirmative team: agrees with the resolution.

Negative team: disagrees with the resolution.

Rebuttal: explains why one team disagrees with the other team.

Judges: decide the winner.

Giving Support for Your Reasons:

Support consists of evidence. The four kinds of evidence, adapted from LeBeau, Harrington, Lubetsky (2000), are:

Example: from your own experience or from what you heard or read.

Common Sense: things that you believe everybody knows.

Expert Opinion: the opinions of experts -- this comes from research.

Statistics: numbers -- this also comes from research.

Debate Process:

1. Form Teams
2. Two or three students form a team.
3. Consider Resolutions
4. Select Sides
5. Formal Debate Structure

Give students the following debate structure, adapted from LeBeau, Harrington, Lubetsky (2000).

Speech 1: The first affirmative speaker introduces the topic and states the affirmative team's first argument.

Speech 2: The first negative speaker states their first argument.

Speech 3: The second affirmative speaker states their second argument.

Speech 4: The second negative speaker states their second argument.

Give a 5-10 minute break for each team to prepare their rebuttal speech.

Speech 5: The negative team states two rebuttals for the affirmative team's two arguments and summarizes their own two reasons.

Speech 6: The affirmative team states two rebuttals for the negative team's two arguments and summarizes their own two reasons.

FCS - Grade Nine Scoring Guide for Final Assessment:

Category	1	2	3	4	5
<p>Content Knowledge</p> <ul style="list-style-type: none"> • Use of specific historical facts • Use of textual evidence • Opinion based on appropriate knowledge 					
<p>Writing Process</p> <ul style="list-style-type: none"> • Ability to explain importance of reading comprehension of documents • Inclusion of use of notebook • Explanation of pulling ideas together to develop writing 					
<p>Format and Structure</p> <ul style="list-style-type: none"> • Appropriate paragraph structure • Essay format for opinion statement 					
<p>Writing Fluency</p> <ul style="list-style-type: none"> • Academic word choice • Appropriate sentence structure 					
<p>Mechanics</p> <ul style="list-style-type: none"> • Spelling errors • Grammatical errors 					

Flint Community Schools³
History/Social Studies Lesson 1

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: to introduce students to the unit, its focus, and expectations
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the <i>Preamble</i> for students and the overhead, copies of the <i>Constitutional Conversation</i> , copies of the scoring guide template and sample essay “Creating Jim Crow” for homework, copies of the Call for Papers with the debate information for closing

Introduction: (Anticipatory Set)	<p><i>This is a short unit on constitutional issues from the end of the 19th century that will provide us with an opportunity to look closely at challenges inherent in American democracy – imperfection and conflict – that were anticipated by the Founders and stated in the Preamble to the Constitution. We will look at the 13th, 14th, and 15th Amendments to study a specific portion of the Constitution and specific Jim Crow laws and the Supreme Court case of Plessy vs. Ferguson to study constitutional law. The unit will culminate in a debate regarding the “imperfect” and solution to conflict- the idea of “separate but equal”- and a final paper, which we will look at later.</i></p> <p><i>Right now I want to briefly explain the historian’s notebook. In this notebook you will record all of your work making meaning of text, such as taking notes or gathering important quotes. It is also a place where you can write your thoughts down as we analyze both primary source documents and the work of other historians. You need to know that this is an academic notebook such as practicing researchers and writers in the field of history keep, which means that you have a focus to your writing or a purpose to it. This is not a place of freewriting for later development in a genre of your choice. You will have a topic and genre by the end of today and each day you will add your thoughts and build your analysis so that when the day to write your final paper comes up you can refer to your notebook and sue the ideas.</i></p>
Teaching/Input: (Modeling, inquiry,	<i>Let’s look at the Preamble and read it together. Read the Preamble off of the overhead aloud as students follow along</i>

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<p>working with reading, film, slides)</p>	<p>silently. <i>The first aspect of this document that stands out to me is this list of verbs. Circle them with me. What are these authors doing? Now let's look at what they are establishing by underlining each idea or noun that comes after the verb, or what they claim to do. Now we have a list of their ideas. What is their purpose in writing the Constitution? For whom is this document, and its ideas, intended for specifically? Do we know without interpreting?</i></p> <p><i>Now we get to the meaning of constitutional law, or the interpretation and implementation of the Constitution. What do you now understand about the Preamble that makes it necessary for laws to follow the Constitution to interpret and implement its ideas?</i></p> <p><i>When we have our final debate concerning the phrase "separate but equal" it will take place on September 18th, which we will celebrate as Constitution Day. This day was set aside as a way to raise awareness of the importance of the Constitution for all generations and to specifically call out the importance of the Preamble. Why do you think this is so?</i></p> <p><i>I want you to read an interview with two Supreme Court justices and several high school students and prepare to discuss why the Constitution is critical for us to study. After you have read this please address the following questions in your notebook.</i></p> <p><i>What do you believe is the role of the Constitution and specifically the Preamble in defining America and the way it enacts laws and functions as a government?</i></p> <p><i>What does the term "more perfect union" mean? How can something be "more perfect?"</i></p> <p><i>Do the ideas in the Preamble have meaning for you in your life?</i></p>
<p>Independent Practice: (Small group work, peer work, or independent work)</p>	<p>Allow time for students to work.</p>
<p>Closing:</p>	<p>Ask students to explain why the Constitution is so important and still relevant.</p>
<p>Assessment:</p>	<p>How well can students articulate their thoughts after reading?</p>
<p>Homework:</p>	<p>Read over the scoring guide and essay "Creating Jim Crow". We will use them in depth tomorrow in class.</p>

Constitution of the United States

Adopted by convention of States, September 17, 1787; Ratification completed, June 21, 1788

PREAMBLE

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

<http://www.law.emory.edu/FEDERAL/usconst.htm>

OUR CONSTITUTION: A CONVERSATION

In the summer of 1787, delegates to the Constitutional Convention gathered in Philadelphia to create a document that would establish the government of the United States. On September 17, that landmark document, our Constitution, was signed. In commemoration of that day, students from several Philadelphia high schools were recently invited to the Supreme Court building in Washington, DC to meet with Justices Sandra Day O'Connor and Stephen Breyer.

The views of the students and the responses of the justices provided a unique glimpse into the workings of America's highest court and the document that shaped our history and guides our future.

QUESTION 1: Teaching the Constitution

Justice O'Connor It's nice to have you safely here and assembled. And are you all ready to start with some questions about our Constitution and our system? Who's going to start off?

Questioner How do you believe the Constitution should be taught in schools, especially with all the new resources that we have and the fact that a lot of young people simply view the Constitution as something that was created two hundred-something years ago and is old and maybe out of date?

Justice O'Connor I hope that the Constitution is something that every school in America will try to teach to young people. You don't inherit it through the gene pool. Every generation has to learn about this, learn about the history. Why was it written, why do we have one? What does it provide? What are the benefits of having such a constitution? Has it worked and how do we as citizens help make it work? And I want to show you something today. This is show-and-tell time.

Each of you is holding a little booklet with our Constitution, aren't you? In the little booklet I have, the basic Constitution is 20 little pages and then there are some additional pages for a few amendments we have had to the Constitution and that's it. Have you noticed in the news that there was a proposed new constitution for the European Union? Here it is. It's 450 pages long, approximately. How many of the voters do you think in France or the Netherlands could read that and understand it or would bother? And they voted "no," didn't they?

Well, this little Constitution certainly has the benefit of being short enough and simple enough that all of us as citizens can read it and understand it, and what a blessing that is.

QUESTION 2: Why have a Constitution?

Questioner I was wondering why you think we have a constitution?

Justice O'Connor Oh, well, to establish the fundamental ground rules for a government.

Otherwise we'd have anarchy. What would we have if we didn't have some basic principles of governance in this country, a system of government?

Justice Breyer Think of then: 13 million people. What are there today, 300 million?

Justice O'Connor Almost 300.

Justice Breyer And we're in a country with every race, every religion, every point of view, every possible national origin. They're not just from California and New Mexico, Maine, Massachusetts. Who knows where they come from; they come from all over and they live together.

Think of then: They all came from England, 90 percent—those who could vote, the others were slaves. Think of then. They were still arguing, weren't they? The Virginians and the ones from Massachusetts, well, they got into arguments. You get into arguments in your class, but you settle them.

You got here didn't you? Well, you think people don't argue on the basis of abortion? How do you think people feel about that? How do you think they feel about prayer in schools? How do you think they felt about the last election or the one before? Go look on television; see how they do it in some places. They pick up paving stones and hit them over the head or worse, and we don't do that. We don't do it.

Justice O'Connor Do you want to fight it out on the streets or do you want to take it to court? And it's about that simple in a way.

QUESTION 3: Helping to Solve Problems

Question How does the Constitution help Americans solve their problems?

Justice Breyer I've been reading some of the history of this, and one of these foreign observers I've been reading is De Tocqueville, and he noticed it 160 years ago, that Americans from the time they're 6 years old are forced to learn how to work with each other in groups and they have to learn that to get my way, I better be sure that you are getting your way. Or if we can't do it, we'll work out a compromise. Or if we can't do it, it will be a mess, but eventually we're going to work together.

Now that, taught in school, is what lets this document work. Because at the heart of this document I would say is not free speech. It's there... It's not even equal protection, that's there, or federalism or separation of powers. Those are very, very important but they're not what this is about.

What this is really about at the bottom of it is how to create a country, now of 300 million people, where people can solve their problems democratically. And all this document is, and all our work with it is, is figuring out how in large groups, states, communities, associations, others, people put to work the same principles that you put to work every

time you work with six of your friends and figure out these five other people are as about as irritating as I've ever met.

But nonetheless, I'm going to get this group together and we are going to accomplish what we're suppose to do. You figure that out, you figure this out.

<http://www.annenbergclassroom.org/downloads/OurConstitution/ConstitutionalConversation.pdf>

Creating Jim Crow
By Ronald L. F. Davis, Ph. D.
California State University, Northridge

The term Jim Crow originated in a song performed by Daddy Rice, a white minstrel show entertainer in the 1830s. Rice covered his face with charcoal paste or burnt cork to resemble a black man, and then sang and danced a routine in caricature of a silly black person. By the 1850s, this Jim Crow character, one of several stereotypical images of black inferiority in the nation's popular culture, was a standard act in the minstrel shows of the day. How it became a term synonymous with the brutal segregation and disfranchisement of African Americans in the late nineteenth-century is unclear. What is clear, however, is that by 1900, the term was generally identified with those racist laws and actions that deprived African Americans of their civil rights by defining blacks as inferior to whites, as members of a caste of subordinate people.

The emergence of segregation in the South actually began immediately after the Civil War when the formerly enslaved people acted quickly to establish their own churches and schools separate from whites. At the same time, most southern states tried to limit the economic and physical freedom of the formerly enslaved by adopting laws known as Black Codes. These early legal attempts at white-imposed segregation and discrimination were short-lived. During the period of Congressional Reconstruction, which lasted from 1866 to 1876, the federal government declared illegal all such acts of legal discrimination against African Americans. Moreover, the passage of the Fourteenth and Fifteenth Amendments, along with the two Civil Rights Acts of 1866 and 1875 and the various Enforcements Acts of the early 1870s, curtailed the ability of southern whites to formally deprive blacks of their civil rights.

As a result African Americans were able to make great progress in building their own institutions, passing civil rights laws, and electing officials to public office. In response to these achievements, southern whites launched a vicious, illegal war against southern blacks and their white Republican allies. In most places, whites carried out this war in the late 1860s and early 1870s under the cover of secret organizations such as the Ku Klux Klan. Thousands of African Americans were killed, brutalized, and terrorized in these bloody years. The federal government attempted to stop the bloodshed by sending in troops and holding investigations, but its efforts were far too limited.

When the Compromise of 1877 gave the presidency to Republican Rutherford B. Hayes in return for his promise to end Reconstruction, the federal government essentially abandoned all efforts at protecting the civil rights of southern blacks. It was not long before a stepped-up reign of white terror erupted in the South. The decade of the 1880s was characterized by mob lynchings, a vicious system of convict prison farms and chain gangs, the horribly debilitating debt peonage of sharecropping, the imposition of a legal color line in race relations, and a variety of laws that blatantly discriminated against blacks.

Some southern states, for example, moved to legally impose segregation on public

transportation, especially on trains. Blacks were required to sit in a special car reserved for blacks known as "The Jim Crow car," even if they had bought first-class tickets. Some states also passed so-called miscegenation laws banning interracial marriages. These bans were, in the opinion of some historians, the "ultimate segregation laws." They clearly announced that blacks were so inferior to whites that any mixing of the two threatened the very survival of the superior white race. Almost all southern states passed statutes restricting suffrage in the years from 1871 to 1889, including poll taxes in some cases. And the effects were devastating: over half the blacks voting in Georgia and South Carolina in 1880, for example, had vanished from the polls. Of those who did vote, many of their ballots were stolen, misdirected to opposing candidates, or simply not counted.

In the 1890s, starting with Mississippi, most southern states began more systematically to disfranchise black males by imposing voter registration restrictions, such as literacy tests, poll taxes, and the white primary. These new rules of the political game were used by white registrars to deny voting privileges to blacks at the registration place rather than at the ballot box, which had previously been done by means of fraud and force. By 1910, every state of the former Confederacy had adopted laws that segregated all aspects of life (especially schools and public places) wherein blacks and whites might socially mingle or come into contact.

The impetus for this new, legally-enforced caste order of southern life was indeed complex. Many lower-class whites, for example, hoped to wrest political power from merchants and large landowners who controlled the vote of their indebted black tenants by taking away black suffrage. Some whites also feared a new generation of so-called "uppity" blacks, men and women born after slavery who wanted their full rights as American citizens. At the same time there appeared throughout America the new pseudo-science of eugenics that reinforced the racist views of black inferiority. Finally, many southern whites feared that the federal government might intervene in southern politics if the violence and fraud continued. They believed that by legally ending suffrage for blacks, the violence would also end. Even some blacks supported this idea and were willing to sacrifice their right to vote in return for an end to the terror.

In the end, black resistance to segregation was difficult because the system of land tenancy, known as sharecropping, left most blacks economically dependent upon planter-landlords and merchant suppliers. Also, the white terror at the hands of lynch mobs threatened all members of the black family--adults and children alike. This reality made it nearly impossible for blacks to stand up to Jim Crow because such actions might bring down the wrath of the white mob on one's parents, brothers, spouse, and children. Few black families, moreover, were economically well off enough to buck the local white power structure of banks, merchants, and landlords. To put it succinctly: impoverished and often illiterate southern blacks were in a weak position in the 1890s for confronting the racist culture of Jim Crow.

White terror did not end--as some blacks had hoped--with the disfranchisement of southern black men. To enforce the new legal order of segregation, southern whites often resorted to even more brutalizing acts of mob terror, including race riots and ritualized

lynching, than had been practiced even by the old Klan of the 1870s. Some historians see this extremely brutal and near epidemic commitment to white supremacy as breaking with the South's more laissez-faire and paternalistic past. Others view this "new order" as a more rigid continuation of the "cult of whiteness" at work in the South since the end of the Civil War. Both perspectives agree, however, that the 1890s ushered in a more formally racist South--one in which white supremacists used law and mob terror to deprive blacks of the vote and to define them in life and popular culture as an inferior people.

<http://www.jimcrowh>

Flint Community Schools⁴
History/Social Studies Lesson 2

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: to introduce students to the scoring guide that will be used to score their paper
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the scoring guide for the overhead, students should already have copies of the scoring guide and sample essay

Introduction: (Anticipatory Set)	<i>At the conclusion of his unit on Sept. 18th, Constitution Day, we will not only participate in a debate but also turn in papers as historians. Today I want to take time to look at the scoring guide to understand the requirements for your final paper but also look at the writing of a historian so that you have an example of a final paper. Your topic will differ from this paper but as historians you will all have certain aspects of writing in common.</i>
Teaching/Input: (Modeling, inquiry, working with reading, film, slides)	<i>Last night I asked you to take a look at the scoring guide for your final paper. Let’s take a look at the first section of the scoring guide “Content Knowledge” and the first bulleted item “Use of specific historical facts”. I want to find a specific example of this aspect of writing in the sample essay. Look at the sample essay in the first sentence. The reference to the man, Daddy White, and the anecdote of his actions is one example of a specific historical fact. What is another in that same paragraph?</i> <i>I want you and your partner to work through the scoring guide. You are to find an example from the sample essay to show each bulleted item in the content knowledge, format and structure, and writing fluency sections of the essay. We will go over your examples as a whole class during closing and also discuss what we understand is necessary in historical writing of high quality.</i>
Independent Practice: (Small group work, peer work, or independent work)	Allow time for students to work.
Closing:	Go over each bulleted item and ask students to share their

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	examples. Define the categories of writing with students so that they are clear about the expectations for writing.
Assessment:	What do students understand about writing in this content area? Check that they understand the essential elements for the final paper such as, use of historical terms and facts, references to court cases and laws, quotes from documents, and academic language used in the field.
Homework:	In their notebooks, describe quality historical writing. What are the necessary elements and how do you know?

Flint Community Schools⁵
History/Social Studies Lesson 3

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: students analyze the 13 th , 14 th and 15 th amendments
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the amendments, notebooks, copies of 13 th Amendment for overhead

Introduction: (Anticipatory Set)	<i>In this unit on constitutional issues we will focus in on a portion of the Constitution, the 13th, 14th, and 15th Amendments to understand what rights they protect and what rights they don't. Once we understand this aspect of these amendments we can then look at specific laws as a response to these protections or lack of protections to study constitutional law.</i>
Teaching/Input: (Modeling, inquiry, working with reading, film, slides)	<p><i>Let's take a look at the Thirteenth Amendment and read it together and determine what rights it protects and what it leaves open. Place a copy of the amendment on the overhead. Read the title and Section One aloud. Looking back at the beginning, we have the words slavery and involuntary servitude or working under some coercion. These are the trespasses against people that this amendment protects. We know this because it states that neither shall exist in the Unites States or its jurisdiction. However, we have the middle of the sentence which gives an exception to this protection, namely for someone who has been convicted of a crime, as long as the conviction is legal and followed all of the appropriate laws. So you see here an example of an exception embedded in the middle of this sentence. Let's write our ideas in our notebook. Write your thoughts (the same ones stated above) on the overhead to model writing.</i></p> <p><i>Look at section two with me. What does it mean that Congress can enforce this through legislation – or the making of laws? What does this leave open? What are the limits of Congress with enforcement of the amendment? Since we are studying Constitutional legal issues, how does this federal decision affect the states and the various branches of the government? Discuss this issue with students to determine if they can analyze the other</i></p>

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	<p>two amendments on their own. If they cannot then they will need more support, possibly a continuation of this shared reading.</p> <p><i>I want you to continue to work with the other amendments analyzing them for rights that they protect and those openings for other laws or exceptions, just as we did with the 13th Amendment and then write your thoughts down in paragraph format. I will meet with each partnership to offer support in analysis and also writing thoughts down.</i></p>
Independent Practice: (Small group work, peer work, or independent work)	Allow time for students to work.
Closing:	<p>Go over each amendment and ask students to share what rights they protect and what is left unprotected. Ask them to cite specific evidence so that everyone knows where their ideas come from in the text.</p> <p>Explain to students that the writing in their notebooks can and should be used in later lessons that will rely on their knowledge of the amendments and they the final paper will need specific references and embedded summaries of the amendments to address the question.</p>
Assessment:	Look at the student writing to determine the depth of analysis and quality of writing.
Homework:	In your notebook, predict, specifically, will happen as a result of the 13 th , 14 th , and 15 th , Amendment ratifications?

AMENDMENT XIII

Passed by Congress January 31, 1865. Ratified December 6, 1865.

Section 1.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.

Congress shall have power to enforce this article by appropriate legislation.

<http://www.law.umkc.edu/faculty/projects/ftri>

Fourteenth Amendment - Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Fifteenth Amendment - Right of Citizens to Vote

Section. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section. 2. The Congress shall have power to enforce this article by appropriate legislation.

Flint Community Schools⁶
History/Social Studies Lesson 4

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: students analyze samples of actual Jim Crow laws for patterns across states and connect the repeating areas to the 13 th Amendment
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the Jim Crow laws for students, notebooks, copies of amendment from previous lesson, copies of the Plessy document for background information as homework

Introduction: (Anticipatory Set)	<i>Yesterday we analyzed the 13th, 14th, and 15th Amendment for rights that they protected and rights that they did not. We know from history that laws were enacted at the state level as a response to these Amendments and the unprotected rights.</i>
Teaching/Input: (Modeling, inquiry, working with reading, film, slides)	<i>Look at the copy of Jim Crow laws handout with me. These are sections of actual Jim Crow laws from several states. You need to remember that the 10th Amendment of the Constitution gives states power in developing and enforcing their own laws. In the document there are examples from states such as Arizona and Wyoming and not just the deep South. I also want to be clear that many of these laws of separation were in effect in places up to and through the Civil Rights period of 1950s and 60 so many of the laws that we are studying from the 1900s were in force for almost 100 years.</i> <i>I also want to point out that these excerpts are categorized by the type of rights they address. I want you and your partner to read over the document and establish the patterns presented. Answer the question of what type of rights the Jim Crow laws address across the states. Once you have worked with understanding the patterns go back to the amendments and determine which of the amendments leaves the right(s) unprotected.</i>
Independent Practice: (Small group work, peer work, or independent work)	Allow time for students to work.

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Closing:	Ask students to explain the patterns they see – patterns of separation. Ask them to explain where in the amendments this possibility of separation was left open.
Assessment:	How well are students able to work across documents, meaning how well can they connect the idea from one document to the next?
Homework:	<i>Tomorrow we will analyze a Supreme Court Case called Plessy vs. Ferguson. I want you to read this document tonight as background knowledge.</i>

Alabama, Arizona, Florida, Georgia, & Kentucky

By the 1890s, as the gains of Reconstruction were stripped away, southern states began enacting Jim Crow laws that enforced separate facilities for blacks and whites. Here are samples of the laws enacted by various states.

Alabama

Health Care

No person or corporation shall require any white female nurse to nurse in wards or rooms in hospitals, either public or private, in which negro men are placed.

Transportation

All passenger stations in this state operated by any motor transportation company shall have separate waiting rooms or space and separate ticket windows for the white and colored races.

The conductor of each passenger train is authorized and required to assign each passenger to the car or the division of the car, when it is divided by a partition, designated for the race to which such passenger belongs.

Public Facilities

It shall be unlawful to conduct a restaurant or other place for the serving of food in the city, at which white and colored people are served in the same room, unless such white and colored persons are effectually separated by a solid partition extending from the floor upward to a distance of seven feet or higher, and unless a separate entrance from the street is provided for each compartment.

It shall be unlawful for a negro and white person to play together or in company with each other at any game of pool or billiards.

Every employer of white or negro males shall provide for such white or negro males reasonably accessible and separate toilet facilities.

Arizona

Marriage

The marriage of a person of Caucasian blood with a Negro, Mongolian, Malay, or Hindu shall be null and void.

Florida

Marriage/Cohabitation

All marriages between a white person and a negro, or between a white person and a person of negro descent to the fourth generation inclusive, are hereby forever prohibited.

Any negro man and white woman, or any white man and negro woman, who are not married to each other, who shall habitually live in and occupy in the nighttime the same room shall each be punished by imprisonment not exceeding twelve 12 months, or by fine not exceeding five hundred dollars.

Education

The schools for white children and the schools for negro children shall be conducted separately.

Georgia

Health Care

The Board of Control shall see that proper and distinct apartments are arranged for said patients, so that in no case shall Negroes and white persons be together.

Marriage

It shall be unlawful for a white person to marry anyone except a white person. Any marriage in violation of this section shall be void.

Public Facilities

No colored barber shall serve as a barber [to] white women or girls.

The officer in charge shall not bury, or allow to be buried, any colored persons upon ground set apart or used for the burial of white persons.

All persons licensed to conduct a restaurant, shall serve either white people exclusively or colored people exclusively and shall not sell to the two races within the same room or serve the two races anywhere under the same license.

It shall be unlawful for any amateur white baseball team to play baseball on any vacant lot or baseball diamond within two blocks of a playground devoted to the Negro race, and it shall be unlawful for any amateur colored baseball team to play baseball in any vacant lot or baseball diamond within two blocks of any playground devoted to the white race.

It shall be unlawful for colored people to frequent any park owned or maintained by the city for the benefit, use and enjoyment of white persons...and unlawful for any white person to frequent any park owned or maintained by the city for the use and benefit of colored persons.

All persons licensed to conduct the business of selling beer or wine...shall serve either white people exclusively or colored people exclusively and shall not sell to the two races within the same room at any time. Jim Crow laws were laws that restricted the freedom of African Americans from the 1880s to the 1960s. Here are sample laws enacted in various states.

Kentucky

Reform Schools

The children of white and colored races committed to the houses of reform shall be kept entirely separate from each other.

Louisiana

Entertainment

All circuses, shows, and tent exhibitions, to which the attendance of...more than one race is invited or expected to attend shall provide for the convenience of its patrons not less than two ticket offices with individual ticket sellers, and not less than two entrances to the said performance, with individual ticket takers and receivers, and in the case of outside or tent performances, the said ticket offices shall not be less than twenty-five feet apart.

Housing

Any person...who shall rent any part of any such building to a negro person or a negro family when such building is already in whole or in part in occupancy by a white person or white family, or vice versa when the building is in occupancy by a negro person or negro family, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or be imprisoned not less than 10, or more than 60 days, or both such fine and imprisonment in the discretion of the court.

Maryland

Marriage

All marriages between a white person and a negro, or between a white person and a person of negro descent, to the third generation, inclusive, or between a white person and a member of the Malay race; or between the negro and a member of the Malay race; or between a person of Negro descent, to the third generation, inclusive, and a member of the Malay race, are forever prohibited, and shall be void.

Transportation

All railroad companies and corporations, and all persons running or operating cars or coaches by steam on any railroad line or track in the State of Maryland, for the transportation of passengers, are hereby required to provide separate cars or coaches for the travel and transportation of the white and colored passengers.

Mississippi

Education

Separate schools shall be maintained for the children of the white and colored races.

Free Speech

Any person...who shall be guilty of printing, publishing or circulating printed, typewritten or written matter urging or presenting for public acceptance or general information, arguments or suggestions in favor of social equality or of intermarriage between whites and negroes, shall be guilty of a misdemeanor and subject to fine or not exceeding five hundred dollars or imprisonment not exceeding six months or both.

Marriage

The marriage of a white person with a negro or mulatto or person who shall have one-eighth or more of negro blood, shall be unlawful and void.

Health Care

There shall be maintained by the governing authorities of every hospital maintained by the state for treatment of white and colored patients separate entrances for white and colored patients and visitors, and such entrances shall be used by the race only for which they are prepared.

Prison

The warden shall see that the white convicts shall have separate apartments for both eating and sleeping from the negro convicts.

Missouri

Education

Separate free schools shall be established for the education of children of African descent; and it shall be unlawful for any colored child to attend any white school, or any white child to attend a colored school.

Marriage

All marriages between...white persons and negroes or white persons and Mongolians...are prohibited and declared absolutely void...No person having one-eighth part or more of negro blood shall be permitted to marry any white person, nor shall any white person be permitted to marry any negro or person having one-eighth part or more of negro blood.

New Mexico

Education

Separate rooms shall be provided for the teaching of pupils of African descent, and when said rooms are so provided, such pupils may not be admitted to the school rooms

occupied and used by pupils of Caucasian or other descent.

North Carolina

Books

Books shall not be interchangeable between the white and colored schools, but shall continue to be used by the race first using them.

The state librarian is directed to fit up and maintain a separate place for the use of the colored people who may come to the library for the purpose of reading books or periodicals.

Militia

The white and colored militia shall be separately enrolled, and shall never be compelled to serve in the same organization. No organization of colored troops shall be permitted where white troops are available, and while white permitted to be organized, colored troops shall be under the command of white officers.

Transportation

The...Utilities Commission...is empowered and directed to require the establishment of separate waiting rooms at all stations for the white and colored races.

Oklahoma

Education

Any instructor who shall teach in any school, college or institution where members of the white and colored race are received and enrolled as pupils for instruction shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than fifty dollars for each offense.

Public Facilities

Fishing, Boating, and Bathing The [Conservation] Commission shall have the right to make segregation of the white and colored races as to the exercise of rights of fishing, boating and bathing.

The Corporation Commission is hereby vested with power and authority to require telephone companies...to maintain separate booths for white and colored patrons when there is a demand for such separate booths.

That the Corporation Commission shall determine the necessity for said separate booths only upon complaint of the people in the town and vicinity to be served after due hearing as now provided by law in other complaints filed with the Corporation Commission.

South Carolina

Lunch Counters

No persons, firms, or corporations, who or which furnish meals to passengers at station restaurants or station eating houses, in times limited by common carriers of said passengers, shall furnish said meals to white and colored passengers in the same room, or at the same table, or at the same counter.

Child Custody

It shall be unlawful for any parent, relative, or other white person in this State, having the control or custody of any white child, by right of guardianship, natural or acquired, or otherwise, to dispose of, give or surrender such white child permanently into the custody, control, maintenance, or support, of a negro.

Texas

Libraries

Any white person of such county may use the county free library under the rules and regulations prescribed by the commissioners court and may be entitled to all the privileges thereof. Said court shall make proper provision for the negroes of said county to be served through a separate branch or branches of the county free library, which shall be administered by a custodian of the negro race under the supervision of the county librarian.

Education

The County Board of Education shall provide schools of two kinds; those for white children and those for colored children.

Virginia

Theaters

Every person...operating...any public hall, theatre, opera house, motion picture show or any place of public entertainment or public assemblage which is attended by both white and colored persons, shall separate the white race and the colored race and shall set apart and designate...certain seats therein to be occupied by white persons and a portion thereof , or certain seats therein, to be occupied by colored persons.

Transportation

The conductors or managers on all such railroads shall have power, and are hereby required, to assign to each white or colored passenger his or her respective car, coach or compartment. If the passenger fails to disclose his race, the conductor and managers, acting in good faith, shall be the sole judges of his race.

Wyoming

Marriage

All marriages of white persons with Negroes, Mulattos, Mongolians, or Malaya hereafter contracted in the State of Wyoming are and shall be illegal and void.

<http://afroamhisto>

Plessy v. Ferguson (1896)

In 1890, Louisiana passed a statute called the "Separate Car Act", which stated "that all railway companies carrying passengers in their coaches in this state, shall provide equal but separate accommodations for the white, and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations. . . ." The penalty for sitting in the wrong compartment was a fine of \$25 or 20 days in jail.

The Plessy case was carefully orchestrated by both the Citizens' Committee to Test the Constitutionality of the Separate Car Act, a group of blacks who raised \$3000 to challenge the Act, and the East Louisiana Railroad Company, which sought to terminate the Act largely for monetary reasons. They chose a 30-year-old shoemaker named Homer Plessy, a citizen of the United States who was one-eighth black and a resident of the state of Louisiana. On June 7, 1892, Plessy purchased a first-class passage from New Orleans to Covington, Louisiana and sat in the railroad car designated for whites only. The railroad officials, following through on the arrangement, arrested Plessy and charged him with violating the Separate Car Act. Well known advocate for black rights Albion Tourgee, a white lawyer, agreed to argue the case without compensation.

In the criminal district court for the parish of Orleans, Plessy argued that the Separate Car Act violated the Thirteenth and Fourteenth Amendments to the Constitution.

John Howard Ferguson was the judge presiding over Plessy's criminal case in the district court. He had previously declared the Separate Car Act "unconstitutional on trains that traveled through several states." However, in Plessy's case he decided that the state could choose to regulate railroad companies that operated solely within the state of Louisiana. Therefore, Ferguson found Plessy guilty and declared the Separate Car Act constitutional.

Plessy appealed the case to the Louisiana State Supreme Court, which affirmed the decision that the Louisiana law as constitutional. Plessy petitioned for a *writ of error* from the Supreme Court of the United States. Judge John Howard Ferguson was named in the case brought before the United States Supreme Court (*Plessy v. Ferguson*) because he had been named in the petition to the Louisiana Supreme Court and not because he was a party to the initial lawsuit.

The Impact of the Case: "Separate But Equal"

Although not specifically written in the decision, *Plessy* set the precedent that "separate" facilities for blacks and whites were constitutional as long as they were "equal." The "separate but equal" doctrine was quickly extended to cover many areas of public life, such as restaurants, theaters, restrooms, and public schools.

The Supreme Court of the United States determined that if legislation makes distinctions based on race, but does not deprive anyone of rights or privileges, it is constitutional. The

Court seemed to believe that the common practice of separation was an inconvenience, not something that abridged the rights of African Americans. The Court also presumed that legislation was powerless to do away with racial instincts or to abolish distinctions based on physical differences.

<http://www.landmarkcases.org/plessy/background3.ht>

Flint Community Schools⁷
History/Social Studies Lesson 5

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: students analyze the majority and dissenting opinion of the Plessy case – introduction to the ideas of argument and debate
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the majority and dissenting opinion from the Plessy case.

Introduction: (Anticipatory Set)	<i>What do you know about the term “separate but equal”? What does it refer to? Where have you heard it? Where does it come from?</i>
Teaching/Input: (Modeling, inquiry, working with reading, film, slides)	<p><i>Last night you were to read a bit of background knowledge on the Plessy case. Today, we will look at the written opinions of the majority side and the dissenting side. This will help us to understand constitutional law and also debate, how to argue effectively.</i></p> <p><i>Let’s look at the document with the arguments from the Supreme Court justices. Read the first section aloud and stop before Section 2. From this portion we understand that Plessy claimed that the separation of races on the railway car in Louisiana violated the 13th and 14th Amendments. In number one the majority decided that it does not violate the 13th Amendment because separation of races on a railway car is not slavery or involuntary servitude, so they dismiss that claim. Read with me what is said in section two. Read this aloud while students follow along. What is his argument about the 14th Amendment? What is his argument about the ideas of “separate but equal”?</i></p> <p><i>I want you to read through the rest of this document with your partner and trace the arguments of both sides. How do they interpret the amendments and the purpose of legislation? How does each side feel about the idea of “separate but equal”?</i></p>
Independent Practice: (Small group work,	Allow time for students to work.

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peer work, or independent work)	
Closing:	<p>Ask students to retrace the arguments of each side, explaining their interpretation of the amendments and thinking.</p> <p>Remind students that the writing in the notebook pertaining to the arguments of each side as well as their thinking about the term “separate but equal” can and should be incorporated into the final paper.</p>
Assessment:	How well are students able to understand the complexities of Constitutional law and state law? How well are they able to articulate these complexities in writing?
Homework:	<i>Over the weekend I want you to work on your paper and also prepare for the debate. I will provide a copy of the Call for Papers and also a protocol for the debate on Monday, Constitution day.</i>

Plessy vs. Ferguson (1896)

Key Excerpts from the Majority Opinion

The decision was not unanimous. Speaking for a seven-person majority, Justice Henry Brown delivered the opinion of the court.

This case turns upon the constitutionality of an act of the general assembly of the state of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races. . . .

The constitutionality of this act is attacked upon the ground that it conflicts both with the thirteenth amendment of the Constitution, abolishing slavery, and the fourteenth amendment, which prohibits certain restrictive legislation on the part of the states.

1. That it does not conflict with the thirteenth amendment, which abolished slavery and involuntary servitude, except as a punishment for crime, is too clear for argument. . . .

Indeed, we do not understand that the thirteenth amendment is strenuously relied upon by the plaintiff. . . .

2. . . .The object of the [Fourteenth] amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. . . .

So far, then, as a conflict with the fourteenth amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the fourteenth amendment than the Acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a

badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. . . . The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits and a voluntary consent of individuals. . . . Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.

Excerpts from the Dissenting Opinion

Justice John Marshall Harlan wrote the dissent.

While there may be in Louisiana persons of different races who are not citizens of the United States, the words in the act 'white and colored races' necessarily include all citizens of the United States of both races residing in that state. So that we have before us a state enactment that compels, under penalties, the separation of the two races in railroad passenger coaches, and makes it a crime for a citizen of either race to enter a coach that has been assigned to citizens of the other race. Thus, the state regulates the use of a public highway by citizens of the United States solely upon the basis of race.

• • •

However apparent the injustice of such legislation may be, we have only to consider whether it is consistent with the constitution of the United States.

The thirteenth amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. . . . But, that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the fourteenth amendment . . . declaring that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside,' and that 'no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These two amendments [Thirteenth and Fourteenth], if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship.

• • •

The white race deems itself to be the dominant race in this country. And so it is, in

prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.

• • •

. . . The present decision, it may well be apprehended, will not only stimulate aggressions, more or less brutal and irritating, upon the admitted rights of colored citizens, but will encourage the belief that it is possible, by means of state enactments, to defeat the beneficent purposes which the people of the United States had in view when they adopted the recent amendments of the constitution, by one of which the blacks of this country were made citizens of the United States and of the states in which they respectively reside, and whose privileges and immunities, as citizens, the states are forbidden to abridge. Sixty millions of whites are in no danger from the presence here of eight millions of blacks. The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

<http://www.landmarkcases.org/plessy/exc>

Flint Community Schools⁸
History/Social Studies Lesson 6

Course: History/Social Studies Grade 9
Unit: Constitutional Issues
Objective: students participate in a debate considering the term “separate but equal”
Essential Question: (this should be posted in the classroom for all to easily see throughout the unit) Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?
Time Frame: 50 min. lesson
Materials/Resources/Preparation: copies of the debate topic and process for each student as well as their materials from the unit (documents, notebooks, etc.) You may want to reserve the library for this day and set up debate for four to six, two or three on each side with you in the center as moderator and facilitator of the process. Administrators, librarians, teacher, community members, and other people you deem appropriate can and should sit in on debates and offer support and feedback to the students.

Introduction: (Anticipatory Set)	<i>I want to welcome you all to the Flint Community Schools debate. Our topic today is the question of: Why was the concept of “separate but equal” possible in this democratic society given the ideals and rights stated in the Constitution?</i> <i>Our first set of debaters include _____ for the pro/affirmative side and _____ for the con/negative/contrary side.</i>
Teaching/Input: (Modeling, inquiry, working with reading, film, slides)	<i>We will begin with the affirmative side, which will introduce the topic and state their first argument.</i> <i>Now we will follow with the opposing side stating their opinion.</i> <i>Affirmative side, you state your second argument.</i> <i>Opposing side, you may state your second argument.</i> <i>The debate will convene for five minutes while each team prepares rebuttals to the arguments and summarizes their own arguments.</i>
Independent Practice: (Small group work,	

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peer work, or independent work)	
Closing:	<i>I want to thank you for attending the debates and most of all I want to thank the participants for their thoughts.</i>
Assessment:	Be sure to collect the papers and on the scoring guide reflect on the student's role and participation in the debate process.
Homework:	

Debate Topic:

Why was the concept of “separate but equal” possible in our American democratic society given the ideals and rights stated in the Constitution? How and why do historians study the Constitution?

Basic Terms:

Debate: a game in which two opposing teams make speeches to support their arguments and disagree with those of the other team.

Resolution: the opinion about which two teams argue.

Affirmative team: agrees with the resolution.

Negative team: disagrees with the resolution.

Rebuttal: explains why one team disagrees with the other team.

Judges: decide the winner.

Giving Support for Your Reasons:

Support consists of evidence. The four kinds of evidence, adapted from LeBeau, Harrington, Lubetsky (2000), are:

Example: from your own experience or from what you heard or read.

Common Sense: things that you believe everybody knows.

Expert Opinion: the opinions of experts -- this comes from research.

Statistics: numbers -- this also comes from research.

Debate Process:

1. Form Teams
2. Two or three students form a team.
3. Consider Resolutions
4. Select Sides
5. Formal Debate Structure

Give students the following debate structure, adapted from LeBeau, Harrington, Lubetsky (2000).

Speech 1: The first affirmative speaker introduces the topic and states the affirmative team's first argument.

Speech 2: The first negative speaker states their first argument.

Speech 3: The second affirmative speaker states their second argument.

Speech 4: The second negative speaker states their second argument.

Give a 5-10 minute break for each team to prepare their rebuttal speech.

Speech 5: The negative team states two rebuttals for the affirmative team's two arguments and summarizes their own two reasons.

Speech 6: The affirmative team states two rebuttals for the negative team's two arguments and summarizes their own two reasons.