

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM ELEMENTARY SCHOOL LEVEL

Courtroom Club: An Extracurricular Activity*

LEARNING CONTEXT

Purpose:

The purpose of this activity is to provide after-school or weekend extracurricular law-related educational activities for elementary and middle school students that teach them how to recognize and help administer justice. This activity is relatively sophisticated and may not be appropriate for elementary age levels unless the students have an extensive background in how the court system functions.

Grade Level:

Elementary and Intermediate

Learning Standard:

Social Studies Standard 1 and 5

Core Curriculum (excerpted from the Social Studies Resource Guide with Core Curriculum):

These activities address the core curriculum concepts and themes that relate to civic values, government, citizenship and civic life. Students study about the rights and responsibilities of citizenship in their communities (grade 2). As they learn about communities throughout the world, they begin to compare the roles of citizenship and the kinds of governments found in various world communities (grade 3). The in-depth study of local government will emphasize the structure and function of the different branches and the roles of civic leaders. By participating in school activities that teach democratic values, students develop a sense of political efficacy and a better understanding of the roles of supporters and leaders. They expand their civic concepts of power, equality, justice, and citizenship as they learn about local government (grade 4). Students then build on and reinforce civic values and historic and political content learned about the United States by comparing and contrasting their government to that of other nations. Concepts such as civic life, politics, and government can be used to answer questions about what governments can and should do, how people should live their lives together, and how citizens can support the proper use of authority or combat the abuse of political power (grade 5).

* Developed with the assistance of Linda Skidmore, Teacher, LEAD Program, Northport-East Northport School District

Concepts/Themes:

- Understanding how every citizen is entitled to participate in local, state and national government by voting and may be required to participate in other ways, such as through jury service (Elementary and Intermediate Levels).
- Understanding and appreciating the role of government in meeting the needs and wants of communities (Elementary and Intermediate Levels).
- Understanding how elected and appointed leaders make, enforce and interpret the law (Elementary and Intermediate Levels).
- Understanding and examining how rules and laws are developed to govern conflicts (Elementary and Intermediate Levels).
- Analyzing the sources of the nation's values as embodied in federal and state constitutions and statutes and appreciating the principles, ideals and core values of our democracy (human dignity, liberty, justice, and equality) (Intermediate Level).
- Examining how government protects the rights of individuals and promotes the common good (Elementary and Intermediate Levels).
- Analyzing how our government is premised on majority rule that simultaneously protects minority rights (Intermediate Level).

Prior Knowledge:

Self-selected elementary students should have an interest in learning about law and the justice system. The club advisor should have an interest in and basic knowledge of the justice system.

PROCEDURE

The following procedures map out 14 meeting agendas that each take approximately 45 minutes to conduct. Many of the agendas can stand alone; however, several are interrelated and sequentially developed to culminate with a mock trial. Most of the agendas are enhanced by multimedia presentations; some include interactive learning material.

The advisor should plan to secure media equipment and learning technology resources to enhance the club's legal learning experiences. Most of the materials used to enhance the club activities are free or inexpensive. Ideally, the club should have a small budget to accomplish its goals and objectives.

Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students' knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.

Agenda 1 (First Meeting)

Objective:

To explain the purpose of the club and what students will be doing.

Procedure:

Begin by welcoming members to the club and explaining that the goal of the club is to further understanding of how the concepts of justice and fairness affect students' lives.

Introduce the concepts of justice, fairness, equality, citizenship, civic responsibility and the tools our nation uses to protect human rights. Explain how these concepts are relevant to school, community life, and all interactions with other people.

Discuss the purpose and function of school rules, student codes of conduct, and relevant student handbooks as they relate to the concepts of justice, fairness and equality. Review existing school rules, codes, or handbooks as examples of the codification of these concepts. Discuss and determine whether these rules fairly balance the rights of students and school administrators.

The advisor may use the "Doctor DeSoto v. the Fox" teaching tool as the foundation of this club activity, or the advisor may create a scenario based on current events in the school or community.

As an example, this outline will use the "Doctor DeSoto v. the Fox" scenario.

Activity:

Have club participants read or view Doctor DeSoto by William Steig, published by Farrar, Straus and Giroux, LLC, prior to the first meeting. Doctor DeSoto is about a mouse dentist who treats a Fox and tricks the Fox into not eating Doctor DeSoto and his wife.

Discuss the part of the story where the DeSotos must decide whether to let the sick Fox in for treatment -- a moral decision. Ask students to select a point of view and advise Dr. DeSoto as to the proper decision. Possible viewpoints for them to consider include: their own, another dentist, a judge, a religious advisor. Have students share their viewpoints with each other.

Discuss the part of the story where Doctor DeSoto insists that he will finish the job that he has started – a rule that his father taught him. Ask students to discuss rules that they have learned from their families or friends and to provide examples of when they have followed these rules.

Provide the new ending to the Doctor DeSoto story:

Imagine that the story has a new ending –

The Fox was very angry that Doctor DeSoto and his wife tricked the Fox into not eating the DeSotos. One night, when the DeSotos were having a dinner party, someone threw two huge rocks through their dining room window, breaking the window.

Mrs. DeSoto ran to the window and is certain that she saw the Fox standing behind a tree on the front lawn. She recognized the green jacket that the Fox had worn to the dentist's office. Doctor DeSoto called the police and reported that rocks were thrown into their home at about 7:00 pm.

The police arrested the Fox later that night. They charged the Fox with vandalism – the destruction of somebody else's property.

The Fox says he was in his own home with his friend, the Cow, at the time of the window breaking incident. The Cow agrees that he was with the Fox at the time the rocks were thrown. The Cow says he was at the Fox's home from about 7:00 - 10:00 pm that night.

Discuss the fact that it is morally wrong to damage someone else's property, such as by throwing rocks through a window. Explain that the laws of the State of New York are the written rules that tell people when it is wrong for them to do something. For instance, some of these rules make acts of vandalism illegal. One role of the government is to help protect people, so the government has created laws against vandalism because individuals want to know that their personal property is protected.

As an example, read to the students the following modified excerpt from the New York State Penal Law that addresses vandalism (Section 145.00 - Criminal mischief in the fourth degree):

A person is guilty of [vandalism] . . . when having no right to do so . . . he . . . intentionally damages property of another person.

Explain that trials are the method we use to determine whether someone has done something that is illegal or is improper according to our laws. There are criminal trials and civil trials. When the police arrest someone for committing an illegal act, a criminal trial occurs. The result may be that the person arrested serves a sentence in prison. When a citizen sues another citizen and no arrests are involved, a civil trial occurs. The result may be that the person who is sued must pay an amount of money to the person who brought the suit to make up for any wrongdoing.

Using the DeSoto example, a criminal trial could occur because the police arrested the Fox and charged him with a crime, vandalism. However, a civil trial could also occur if the DeSotos decided to sue the Fox to make him pay for the damage that they think he caused to their window.

Explain that at the next meeting, students will start to learn how to conduct a mock criminal trial. They will eventually use these skills to help determine whether the Fox actually vandalized the DeSoto home. The trial will take place in front of a judge and jury to decide whether the Fox is guilty of throwing rocks through the DeSotos' window. The prosecution must provide evidence that the Fox is the one who threw the rocks. The prosecution will ask Mrs. DeSoto to testify that she saw the Fox outside of her home when the rocks were thrown. The defense will provide evidence that the Fox was not the one who threw the rocks. The defense attorney wants to create "reasonable doubt" in the minds of the jury, meaning that at least some of the jury members will think that the Fox did not throw the rocks. To prove this point, the defense will ask the Cow to testify that the Fox was home when the rocks were thrown.

Agenda 2

Objective:

To introduce students to the important terms and procedure in a criminal trial.

Procedure/Activity:

Use some sort of visual technique to display and describe the following terms and definitions.

JUDGE	The head of the court, decides issues of law, and ensures that justice is carried out in the courtroom.
EVIDENCE	The facts about a case that are discussed during the trial.
DEFENDANT	The person arrested and charged with a crime.
PROSECUTOR	Represents the interests of all of the People of the State of New York through their government. Attempts to prove beyond a “reasonable doubt” that the defendant is guilty of the crime. This means that the prosecutor must provide enough evidence to show that the person arrested actually committed the crime.
DEFENSE ATTORNEY	Represents the rights of the defendant. Attempts to show through evidence at trial that the defendant is not guilty. Every criminal defendant is entitled to a defense attorney to show that the defendant is innocent until proven guilty.
WITNESSES	Assist lawyers by testifying and providing evidence about the case. The information is used by the jury to determine whether the defendant is guilty.
CLERK	Gives the oath to witnesses and assists the judge in keeping order in the court.
OATH	“Place your left hand on the Bible and raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give is the truth, and nothing but the truth?”
JURY	Several people selected by the attorneys to decide issues of fact. They must pay close attention to the evidence presented by both sides and decide on a verdict, which is the decision of whether the defendant is guilty or not guilty.
COURT OFFICER	Makes sure the courthouse is safe for everyone, including visitors to the court.

Further, the Unified Court System Juror's Handbook and video "Your Turn" can be used to review the following court procedures:

CALL TO ORDER	The clerk calls the court to order and everyone stands as the judge enters the courtroom.
OPENING STATEMENTS	The attorneys for both sides introduce themselves to the jury and explain what the trial will be about and what facts they intend to prove.
DIRECT EXAMINATION (PROSECUTION)	The prosecution calls witnesses to question them about the facts of the case.
CROSS EXAMINATION (DEFENSE)	The defense attorney also questions the same witnesses and attempts to show that the testimony is inaccurate, false, or could actually demonstrate that the defendant did not commit the crime.
DIRECT EXAMINATION (DEFENSE)	The defense attorney questions different witnesses to show that the defendant did not commit the crime.
CROSS EXAMINATION (PROSECUTION)	The prosecution questions the defense witnesses to try to show that the testimony is inaccurate or false.
CLOSING STATEMENTS	Both attorneys summarize the facts of the case as they see them. The defense attorney goes first; the prosecution closes last.
JURY CHARGE	The judge instructs the jury as to what law applies to the case.
JURY DELIBERATION	The clerk takes the jury to the jury room, where they discuss the case and decide whether the defendant is guilty.
VERDICT	The jury foreman reads the verdict to the judge to announce the decision of the jury.
SENTENCING	If the defendant is found guilty, the judge will pronounce the sentence.

Agendas 3 – 7

“Justice by the People” is a five lesson interactive curriculum designed for grades 5-9 by the American Board of Trial Advocates (ABOTA) and can be ordered through the ABOTA website at <http://www.abota.org> . You may wish to have club members participate in one or more of the ABOTA lessons before Agenda 8 (voir dire). Each of the five ABOTA lessons would constitute a club meeting.

Meeting 3: The Value of Group Decision Making

Meeting 4: History of Conflict Resolution and the Jury System

Meeting 5: Jury Selection

Meeting 6: The Trial of Gold E. Locks (includes a 15 minute video of the trial, which is stopped at certain points for discussion)

Meeting 7: Jury Deliberation based on the trial from Meeting 6

For more information about “Justice by the People,” contact:
Foundation of the American Board of Trial Advocates
5307 East Mockingbird Lane, Suite 1060
Dallas, Texas 75206-5109
Phone: (800) 779-JURY (5879); (214) 827-1791
Fax: (214) 827-2012
E-mail: <http://www.ABOTA.ORG/PUBLIC/ONLINELISTING.HTML>

Agenda 8

Objective:

Students will work on teams to learn skills needed for the various roles in the mock criminal trial. Students should use this exercise to help determine whether they wish to act as the prosecutor, the defense attorney, or a witness during the mock trial.

Procedure:

Select several age appropriate newspaper articles that depict conflicts or will foster discussions involving different points of view.

Divide the members into groups of three to practice listening, fact finding, and communication skills.

Activity:

The advisor will help identify the basic skills used in preparing opening statements, direct and cross examination questions, and closing statements. Explain that the club will practice discussion of issues in a conversational context as practice for discussion of issues in a “courtroom” context.

Give each group of students an article. One student will not read the article but will listen to the two other students (who have read the article) stand up and take turns presenting one of the different points of view reported in the newspaper article. The listener will then explain to the presenters what he/she believes are the important facts and the conflict in the issues they presented. The three students should read the article together and come to an agreement on the important facts. One person selected by the group will stand up and explain the facts and the issue to the rest of the club members.

Agenda 9

Objective:

Students will work in teams to practice opening and closing arguments.

Procedure:

By now, the advisor should have set a date for the mock trial, identified outside students to voir dire at Meeting 12 (see Agenda 12), written invitations for parents and special guests to attend, and confirmed someone (a judge, attorney, teacher, or older student) to act as the judge for the mock trial.

Activity:

Briefly review the Doctor DeSoto story and the additional ending that sets the stage for the mock trial.

Divide the students into two teams, generally based on the students' preferences for a "side" for the mock trial -- prosecution or defense.

The club advisor should explore and discuss with the students the identification of the relevant facts at issue -- that someone threw rocks into the DeSoto home, that Mrs. DeSoto thought she saw the Fox outside their home at that time, that a different witness will testify that the Fox was at his own home (and not the DeSoto home) at the time the rocks were thrown. The advisor should encourage the students to think of details that may be missing from the facts that were given in order to develop a possible theory of the case.

The theory sets the stage for the "stories" that the attorneys will tell during their opening and closing arguments. The theory also provides guideposts for asking questions during direct and cross-examinations.

Each team should settle on a theory to use as a building block for the case.

Examples of different prosecutor's theories:

The DeSoto home is located next to several street lights and has an exterior light near the front door. Their front lawn is a very bright area even at night, so Mrs. DeSoto would have always had a very clear view of anyone standing in the front lawn.

Mrs. DeSoto has seen the Fox twice at the dentist's office and knows exactly what he looks like. He always wears a green jacket, and she recognized the Fox on the front lawn by his jacket. The Cow was not at the Fox's home exactly at 7:00 pm, so the Fox could have thrown the rocks shortly before 7:00 pm and still run home before the Cow arrived.

Examples of different defense theories:

Even though the DeSoto front lawn is under bright lights, the tree that the Fox was allegedly hiding behind would cast shadows. Everything happened very quickly, and Mrs. DeSoto did not spend much time looking out the window.

Mrs. DeSoto has only met the Fox twice. She doesn't really know what he looks like. Mrs. DeSoto usually wears glasses but did not have them on for the dinner party.

The Fox was with the Cow all evening. He told the Cow that he spilled something onto his favorite green jacket that morning, so he brought the jacket to the dry cleaner that day. The Fox

says he then went immediately home and did not go out again because he did not have a jacket.

The advisor should explain that by simply discussing the case history and the theory of the case, the opening and closing statements take shape. The teams should choose or be assigned one theory each to build into an opening argument, as exemplified below.

The prosecutors can be assigned the theory that the outside of the DeSoto home is very bright, so Mrs. DeSoto clearly saw the Fox; the defense can be assigned the theory that Mrs. DeSoto could not have clearly seen the person standing under the tree, and the Cow confirms that the Fox was home at the time of the incident:

Prosecutor --This is a case about a Fox who was angry at the DeSoto family because they recently tricked him. In order to seek revenge, the Fox threw two rocks into the DeSoto dining room and broke a window. The evidence will show that Mrs. DeSoto looked out of her window immediately after the rocks were thrown, and she clearly saw the Fox standing beneath a street light on her front lawn. The defense will try to tell you that it was not Mr. Fox standing on the front lawn. However, Mrs. DeSoto has no reason to lie about what she saw, and she knows the Fox threw the rocks.

Defense -- This is a case of mistaken identity. Unfortunately for the DeSoto family, someone threw two rocks into their home during a dinner party and broke one of their windows. In the shock of the moment, Mrs. DeSoto looked out of her window and thought she saw someone standing in the shadows of her front lawn. Because the DeSotos know that they recently tricked the Fox, they think that the Fox broke their window. However, there is no proof that the Fox was anywhere near the DeSoto residence when the window was broken. In fact, the evidence will show that the Fox was in his own home at the moment in question. Someone else broke the DeSotos' window.

The teams should use this time to understand how the theories of the case are used in opening and closing statements and to practice delivering such statements within their groups.

Agenda 10

Objective:

Students will work in teams to practice direct and cross examination.

Procedure:

The club participants should again divide into the two teams from Day 4. Based on the theory they chose for practicing opening and closing statements, the teams should develop a list of ten questions that they would ask the various witnesses.

Activity:

The prosecution team will have questions to ask Mrs. DeSoto about what she saw when she looked out her window after the rocks were thrown into her home.

Examples:

Was it light or dark out?

Were there any street lights or exterior house lights on?

Was anything blocking your view out the window?

What did you see?

How did you recognize the person you saw as the Fox?

Did you check what time it was when the rocks were thrown?

The prosecution team will also have questions for cross-examining the Cow.

Examples:

What time did you arrive at the Fox's home?

Did you check the clock?

What was the Fox wearing that evening?

Have you ever discussed the DeSoto family with the Fox?

Have you ever seen the Fox throw rocks?

The defense team will have questions with which to cross-examine Mrs. DeSoto about her seeing the Fox outside of her home.

Examples:

Do you need glasses to see?

Did you have them on when you looked out the window?

How many times have you ever met or seen the Fox?

How big is the tree that the Fox was allegedly standing behind?

The defense team will also have direct examination questions for the Cow.

Examples:

How long have you and the Fox been friends?

What time were you with the Fox on the night in question?

What were you and the Fox doing?

Did the Fox discuss his favorite green jacket?

At the end of this meeting, students should be assigned to their roles for the mock trial -- prosecution team, defense team, witness. The teams will consist of five people each, as follows:

Prosecution: Attorney for Opening Statement
Attorney to Direct Mrs. DeSoto
Attorney to Cross the Cow
Attorney for Closing Statement
Witness - Mrs. DeSoto

Defense: Attorney for Opening Statement
Attorney to Cross Mrs. DeSoto
Attorney to Direct the Cow
Attorney for Closing Statement
Witness - the Cow

Students should also decide on or be assigned a theory of the case, so they can start thinking about relevant questions. If the club is large enough, there can be more than one mock trial, utilizing different students. In that case, the advisor should assign different theories to the different trial sets, and students will be able to appreciate how the result of a case may differ based on different evidence presented during the trial.

For example, assign Prosecution Group #1 the theory that the outside of the DeSoto home is very bright, and Mrs. DeSoto could clearly see the Fox standing behind her tree because she had her glasses on. Assign Defense Group #1 the theory that the very large tree creates shadows on the lawn. Mrs. DeSoto has only met the Fox twice, so she cannot recognize him very well.

Assign Prosecution Group #2 the theory that Mrs. DeSoto knows that the Fox always wears a green jacket, and she recognized the Fox outside of her home because she saw the jacket. Assign Defense Group #2 the theory that the Fox was at home with the Cow that evening and told the Cow that the green jacket was at the dry cleaner's.

The students who will act as witnesses should know what their relevant assigned theory is and be aware of the types of questions that will be asked of them on direct and cross-examination.

Agenda 11

Objective:

Students will understand the function of a jury and the jury selection process (voir dire). They will understand that because the jury plays such an important role in the system, jury selection is one of the most important parts of the trial. Students will create a list of questions for the voir dire of the prospective jurors.

Procedure/Activity:

The advisor should identify students interested in being jurors and advise them of the time, date, and location of Meeting 12.

The advisor may elect to show “Your Turn,” the NYS Unified Court System’s video on jury duty. The advisor may also conduct an age-appropriate activity regarding jury selection found in the Law, Youth and Citizenship publication, *The Noblest Institution: Teaching About the Right to Trial by Jury in New York*.

The advisor should emphasize that the jury system virtually ensures that each citizen will play an important part in the justice process at least once during their lifetime. They should take very seriously the lessons learned during these activities, since these activities will help prepare them to participate properly in the justice system, a system that helps protect the rights of everyone. The jury system helps promote justice, fairness, and equality when individual rights are at stake. It helps preserve the very important principle that defendants are innocent until proven guilty.

The selection of the jury by attorneys is called voir dire. It offers the attorneys a chance to learn a little bit about each juror, even though the prospective jurors do not yet know very much about the case. Students must understand that the questions attorneys ask the prospective jurors relate to the facts of the case so that the attorneys can anticipate how the jurors will react to the evidence and decide the case. Attorneys should pick juries based on the answers to their questions, not on the appearance of the juror. It doesn’t matter if the juror is young or old, tall or short; what matters is that the juror will listen to the facts of the case and be fair.

Students should understand that attorneys are not permitted to discriminate against anyone on the jury. For example, this means that the reason that an attorney does not pick a certain person to act as a juror must be a reason relating to the facts of the case -- for instance, a prospective juror may state that he or she never believes defendants, no matter what the crime charged. The defense attorney may then decide not to select that juror to sit on the case. However, the attorney cannot decide against using a juror simply because of the juror’s race or ethnic identity.

The club should be divided again into the two teams from Day 4. The students should formulate questions appropriate for the “side” they represent. Students can practice acting as the attorney and asking questions of other team members in order to see how different people answer questions differently.

Example prosecution questions:

Have you ever seen a fox?

Do you like foxes?

Do you own a home? Does it have windows?

Would you let a fox into your home?

Has anyone ever damaged your home?

Example defense questions:

Do you like dentists?

Have you ever had a toothache that the dentist couldn't fix?

Have you ever become angry with someone because they tricked you? What happened?

Do you think people are innocent until proven guilty?

Do you trust the police?

Agenda 12

Objective:

To conduct voir dire of the prospective jurors for the mock trial.

Procedure:

Student attorneys will have the opportunity to select jurors for their upcoming case. The advisor should invite a local person or (high school student) to act as judge.

Activity:

The “judge” should call prospective jurors in one at a time for voir dire.

Before this meeting is over, jurors for the mock trial must be selected and given notice of the date and time of the trial.

Agenda 13

Objective:

To conduct the mock trial.

Procedure:

Students should be reminded of their assigned theories and of what they learned in their group activities about the theory of the case and related questions to ask. Students should be advised that there will be time limits for each part of the mock trial – they do not need to use the whole time, but they should not go over time.

Have a person videotape the mock trial for any debriefing.

Activity:

Jurors should be sworn in as a group and a one-half hour mock trial should proceed as follows:

Judge greets the attorneys and explains that he or she will enforce the time limits	
Prosecution's Opening Statement	1 minute
Defense's Opening Statement	1 minute
Prosecution's Direct Examination of Mrs. DeSoto	4 minutes
Defense's Cross Examination of Mrs. DeSoto	4 minutes
The Prosecution Rests	
Defense's Direct Examination of the Cow	4 minutes
Prosecution's Cross Examination of the Cow	4 minutes
The Defense Rests	
Defense's Closing Statement	1 minute
Prosecution's Closing Statement	1 minute
Judge's Charge to the Jury*	
Jury Deliberation** (with assistance from the advisor)	10 minutes
Judge asks for the Verdict	

*The judge's charge to the jury should simply remind the jurors that they are to consider only the facts put into evidence and not consider their own personal feelings regarding foxes or dentists or their own personal feelings regarding the attorneys representing the parties.

**All students should witness the jury deliberation, so they can learn how facts are interpreted and processed by a group that was not previously familiar with those facts. The adviser can facilitate this process with questions.

Examples:

- Do you think that Mrs. DeSoto was able to clearly see the person standing under the tree on her front lawn?
- Do you think Mrs. DeSoto knows the Fox well enough to recognize him?
- Do you think the Fox was telling the truth about bringing his jacket to the dry cleaner's that day?
- Do you believe the Cow when he says he spent the evening with the Fox?

Agenda 14

Objective:

A celebration of learning and debriefing.

Procedure/Activity:

The final club meeting should celebrate each student's involvement in the club. All club members should receive an award certificate. The New York State Courts and NYS Bar Association have model award certificates to copy and use.

Invite the club members' families and allow them to review the mock trial videotape if they missed the mock trial. Have club members evaluate the club activities and write thank-you notes to all who helped.