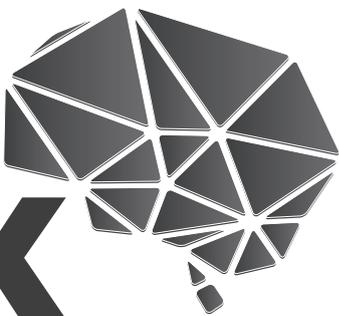




THINK 
LAW

VOLUME I
TEACHERS EDITION



THINK
LAW

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TEACHERS EDITION

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Teaching thinkLaw

Teaching critical thinking requires a lot of time, preparation, and skill. The thinkLaw Volume I Teacher's Edition, PowerPoint Presentations, and Student Workbook simplify this process by providing a turnkey system for engaging learners and building crucial critical thinking skills. thinkLaw is a loosely-scripted program that allows skilled facilitators the flexibility for learner-based instruction. thinkLaw also provides beginning facilitators with a clear guide for rigorous critical thinking instruction.

There are 4 key principles to keep in mind throughout this curriculum:

1) You are a facilitator, not a teacher

thinkLaw is a learner-centered curriculum. For thinkLaw to work, instructors must avoid the urge to simply teach the information presented in each lesson. Instead, instructors should facilitate discussions, relying on the Socratic method – teaching by asking questions. This requires a great deal of patience, listening, and redirection to make sure Thinkers are focused on the issues presented in each lesson. Fortunately, the thinkLaw Volume I Teacher's Edition contains several suggested responses, probing questions, and discussion pointers to make facilitation easier.

Encourage Thinkers to lead discussions as often as possible. Whenever text needs to be read out loud, have a Thinker read it rather than you. Conduct small group discussions to change the pace of lessons. Ask Thinkers to vote on their opinions multiple times in each lesson. Keep thinkLaw learner-focused.

2) thinkLaw is about critical thinking, not the law

thinkLaw is not a legal education program, mock trial program, or a mini-version of law school. thinkLaw merely uses real-life legal cases as a tool for teaching a wide variety of critical thinking skills. As an instructor, you should instruct Thinkers to focus on the facts and laws involved in each lesson, and redirect questions and comments about other areas of the law that are not relevant to the case

under consideration. The Instructor's Notes are designed to address most potential questions Thinkers may have about the law in each case. There is no need for instructors to independently research thinkLaw cases or legal concepts.

3) Answers are not right or wrong – they are supported or unsupported

Unlike most content-based subjects, very few thinkLaw problems have actual right or wrong answers. This mirrors real life, and may cause some discomfort at first. Some thinkLaw lessons require you to tell Thinkers the outcome of cases decided by a judge or a jury. But even then, Thinkers are pushed to evaluate the outcome of these cases.

4) Emphasize the DRAAW+C framework for all discussions and writings

Push Thinkers to use the DRAAW+C (Decision, Rule, Argument for Plaintiff, Argument for Defendant, World/public policy implications, and Conclusion) framework in all thinkLaw lessons, assignments, and writing exercises. This framework is outlined in the grading rubric in Lesson I and explicitly taught to Thinkers in Lesson II. (Prior to Lesson II, Thinkers learn the individual parts of the DRAAW+C framework).

Note: You may want to post the DRAAW+C framework in your classroom so you can regularly reference it.

Using the Teacher's Edition

The thinkLaw Volume I Teacher's Edition is exactly like the corresponding Student Workbook except for two key differences:

- 1) All text written in red is seen in the Teacher's Edition only. Red text is used to explain legal rules, case explanations, and suggested answers.
- 2) All Instructor's Notes, probing questions, and background information in the margins of the Teacher's Edition do not appear in the Student Workbook.

Using thinkLaw Volume I PowerPoint Presentations

thinkLaw Volume I PowerPoint Presentations are an optional tool you can use to incorporate visual components into your lesson. These slides contain legal rules and case explanations.

Using the Instructor's Notes

Instructor's notes are spread out throughout this book. These notes help explain commonly asked questions, provide tips about organizing lessons, and offer several "probing questions" to help Thinkers get a deeper understanding of the material. Any time new legal concepts are introduced, you will receive notes on how to explain them.

Using the Student Workbook

The thinkLaw Volume I Student Workbook is designed to help Thinkers learn applicable legal concepts for each lesson, organize their thoughts, and structure their writing. Thinkers should use the Student Workbook as often as possible while completing thinkLaw lessons.

Planning thinkLaw Lessons

thinkLaw lessons are designed to allow for deep discussion. Depending on your Thinkers, some parts of certain lessons may take more time than others. Because thinkLaw is not about teaching content, Thinkers do not lose value if it takes more time than expected to complete a thinkLaw lesson.

As a general rule, plan to spend only 5-10 minutes

on each "thinkStarter." thinkStarters are similar to warm-ups, do nows, and bell-ringers because they are meant to activate the critical thinking skills of Thinkers and introduce the lesson's topic. However, some thinkStarters create so much discussion and interest that you may need to abruptly cut off the discussion to get through the rest of the lesson.

The thinkBigger sections of each lesson are meant to help Thinkers apply the concept of the lesson to a related problem. thinkBigger responses can be used for take-home assignments, a closing discussion, or an additional writing exercise depending on your timing needs.

Aligning thinkLaw with Texas Essential Knowledge and Skills (TEKS) Standards

Every thinkLaw lesson (excluding the assessments and the introductory lesson) starts with a table showing the lesson's alignment with TEKS English and Language Arts Standards for grade levels 5-12.

Discussing Controversial Topics

thinkLaw is based on real-life legal cases that sometimes involve controversial social issues. To help maintain respectful discussions, have Thinkers agree to follow the ground rules below, as well as any other ideas you may have for maintaining a civil and respectful discussion:

Criticize the idea, not the person

2) Use "I" statements (when talking about an idea, say "I think" or "I disagree" rather than "people think," "we think," or "you think")

3) Don't interrupt

4) Agree to disagree

5) Listen, even if you disagree

Note: You may want to post these rules in your classroom so you can regularly reference them.



LESSON 0

Introduction to thinkLaw

Instructor's Note:

This lesson provides an orientation to the thinkLaw program. It may be tempting to skip this lesson, but explaining what thinkLaw is and going through the "Tips for thinkLaw Success" will make thinkLaw much clearer. Depending on your time constraints, you can complete this lesson and Lesson 1's diagnostic assessment on the same day.

LESSON 0

Introduction to thinkLaw

About thinkLaw

It is not surprising that 25 US Presidents, 35 of our country's founding fathers, countless leaders in government, business and industry, and visionary leaders like Nelson Mandela and Mahatma Gandhi have all been lawyers. Law is a universal language that controls almost every aspect of the world we live in. So just imagine how powerful your mind could be if you learned to think like a lawyer!

thinkLaw builds critical thinking skills through real-life legal cases. In thinkLaw Volume I, you will learn how to argue both sides of cases, conduct investigations, settle disputes, make difficult decisions based on evidence and the law, and write persuasively.

thinkLaw is not designed to teach you the law. Some laws are important to certain thinkLaw lessons, but thinkLaw's purpose is to teach you the critical thinking skills you need to succeed in your academic, professional, and personal lives.

Tips for thinkLaw Success

To get the most out of thinkLaw, follow these 5 important tips for success:

1) *It's okay to not be 100% sure*

The words "I don't know" should never be spoken in thinkLaw. For most thinkLaw problems, there is no clear right or wrong answer. So you should not worry about being "right."

2) *Stick to the facts*

In a real case, you can only deal with the facts in front of you until you get more information. Almost all thinkLaw lessons are based on real life cases. Do not create your own facts. Do not look up laws, cases, or do your own research on thinkLaw cases (unless you are very interested and want to learn more **after** a thinkLaw lesson).

3) *Read and listen closely*

Small details may be very important to a case. Pay attention to every sentence and every word. Also, be sure to look out for missing information. Your thinkLaw instructor will be asking you several questions and giving you a lot of information. Listen closely so you do not miss any of these important details. Also, listen to other Thinkers completing these lessons with you. A group of Thinkers will have a lot more to offer than you alone.

4) *Use the workbook*

The thinkLaw Volume I Student Workbook is designed to make it easy for you to organize your thoughts and ideas for each lesson. For that reason, be sure to use the tables, boxes, and other tools in this workbook.

5) *Do not look ahead*

Keep your student workbook folded over so you can only see one page at a time. This will allow you to focus on the issues one at a time and help you carefully go through the critical thinking process.

The Chair and the Stick (Part I): Applying legal rules from multiple perspectives.

Objective: Thinkers will use their personal knowledge of rules about unwanted touching to create a rule defining the legal elements of battery, learn the actual rule for battery through real-life battery cases, and analyze multiple perspectives of these cases.

This is the first part of a two-part lesson that can be broken into two days for 45-55 minute sections or done in one day taught in a 90-110 minute block.

TEKS CONTENT STANDARDS

GRADE 5

TX 11.A – Students are expected to: summarize the main ideas and supporting details in a text in ways that maintain meaning and logical order;

TX RC.D - Students are expected to: make inferences about text and use textual evidence to support understanding

TX 10-Students are expected to draw conclusions from the information presented by an author and evaluate how well the author's purpose was achieved

TX 12A-Students are expected to identify the author's viewpoint or position and explain the basic relationships among ideas

GRADE 6

TX 17.C-Students are expected to: write responses to literary or expository texts and provide evidence from the text to demonstrate understanding

TX RC.D – Students are expected to: make inferences about text and use textual evidence to support understanding;

TX-18-Students are expected to write persuasive essays for appropriate audiences that establish a position and include sound reasoning, detailed and relevant evidence, and consideration of alternatives

TX 26.A-Students are expected to: listen to and interpret a speaker's messages (both verbal and nonverbal) and ask questions to clarify the speaker's purpose and perspective

GRADE 7

TX 10.A – Students are expected to: evaluate a summary of the original text for accuracy of the main ideas, supporting details, and overall meaning

TX RC.D – Students are expected to: make complex inferences about text and use textual evidence to support understanding

TX 18.A-Students are expected to write a persuasive essay to the appropriate audience that establishes a clear thesis or position

TX 12.A-Students are expected to follow multi-dimensional instructions from text to complete a task, solve a problem, or perform procedures.

Lesson Outline

1. Thinkers will briefly discuss exceptions for the general rule that it is not okay to hit people and use this exercise to define a general rule for battery.
2. Thinkers will learn the formal elements of a battery claim and apply these elements, the broader context, and public policy considerations while arguing the plaintiff and defendant sides of The Chair case.
3. Thinkers will apply the rule from The Chair case to determine if a battery occurred in The Bicycles case.

TEKS CONTENT STANDARDS

GRADE 8

TX 10.C – Students are expected to: make subtle inferences and draw complex conclusions about the ideas in text and their organizational patterns

TX RC.D – Students are expected to: make complex inferences about text and use textual evidence to support understanding

TX 19-Students are expected to write persuasive essays for appropriate audiences that establish a position and include sound reasoning, detailed and relevant evidence, and consideration of alternatives.

TX 26.A-Students are expected to listen to and interpret a speaker's purpose by explaining the content, evaluating the delivery of the presentation, and asking questions or making comments about the evidence that supports a speaker's claims

GRADE 9-10

TX 10.C – Students are expected to: make subtle inferences and draw complex conclusions about the ideas in text and their organizational patterns

TX RC.B –Students are expected to: make complex inferences about text and use textual evidence to support understanding

TX 16-Students are expected to write an argumentative essay to the appropriate audience that includes a clear thesis or position based on logical reasons supported by precise and relevant evidence

TX 9.B-Students are expected to: distinguish among different kinds of evidence (e.g., logical, empirical, anecdotal) used to support conclusions and arguments in texts

GRADE 11-12

TX 10.A-Students are expected to evaluate the merits of an argument, action, or policy by analyzing the relationships among evidence, inferences, assumptions, and claims in text

TX RC.B - Students are expected to: make complex inferences about text and use textual evidence to support understanding

TX 16-Students are expected to write an argumentative essay to the appropriate audience that includes: a clear thesis or position based on logical reasons with various forms of support

TX 9.B-Students are expected to explain how authors writing on the same issue reached different conclusions because of differences in assumptions, evidence, reasoning, and viewpoints

Instructor's Note:

Enter student answers into the following chart. Thinkers are likely to come up with self-defense, accidental hitting, or consent as reasons hitting someone would be okay. After completing the chart with 3-4 entries, ask Thinkers probing questions about the rules for hitting someone, following up with several "why?" questions to spark deeper thought into the rules.

Instructor's Note:

Have Thinkers write the legal rule for battery in the box underneath.

Table 3B

What is the strongest evidence that Brian's act was not done on purpose? (He is only five.) Why is this a strong piece of evidence?

What is the strongest evidence that Brian's act was done intentionally or on purpose?

Did Brian's act involve contact with another person? Why or why not?

If there was contact, was that contact harmful or offensive? Why or why not? Have you ever had a chair pulled out from under you and fallen on the floor? Did you enjoy that? Why or why not? Does your past experience influence your opinion about whether Brian's act was harmful or offensive?

Did Brian's aunt suffer damages as a result of Brian's act? Why or why not? What is the best argument that Brian's aunt didn't suffer any damages?

Sample chart: (Sample answers in red. The only column filled out in student workbooks is the "Element of Battery" column.

Instructor's Note:

It is important to emphasize that great lawyers understand when there are no good arguments.

LESSON 3

The Chair and the Stick (Part I): Applying legal rules from multiple perspectives

Objective: Thinkers will use their personal knowledge of rules about unwanted touching to create a rule defining the legal elements of battery, learn the actual rule for battery through real-life battery cases, and apply multiple perspectives of these cases using these battery rules.



Should you ever be able to hit someone without getting in trouble for it? Why or why not?

TABLE 3A

REASON IT IS OKAY TO HIT SOMEONE	WHY SHOULD THIS REASON PREVENT YOU FROM GETTING IN TROUBLE FOR HITTING SOMEONE?
Self-defense	
They gave you permission to hit them	
You hit them by accident	

Summary of thinkStarter

If you hit someone, the person can sue you for battery – which is just a fancy word for hitting someone. If you commit a battery and get sued, you will be the defendant, and the plaintiff could win a lawsuit against you. If the plaintiff wins, you will be

liable for battery. In other words, you will have to pay the plaintiff money for the harm you caused.

thinkHypothesis

Based on the discussion in the thinkStarter activity, write a rule for battery in the space below.

A BATTERY HAPPENS WHEN A DEFENDANT:

Legal Rule: Battery

thinkCreatively: Using the names Angel and Brianna, create a set of facts that would allow Brianna to win a lawsuit for battery (proving all of these ele-

ments) against Angel and write it down in the space below. Make sure that your story involves Angel intentionally making harmful or offensive contact with Brianna that causes damages.

Here, we know that Brian's aunt had serious injuries that caused her to go to a hospital. But since we know that Brian's aunt still has to prove three other elements besides the damages, it makes more sense to focus on the elements that are less clear. Thinkers should also reach the conclusion that there is no good argument that pulling out a chair is harmful or offensive contact.

Instructor's Note:

Thinkers may conclude that it is odd for an aunt to sue a child. Push Thinkers to come up with reasons why the aunt would make the interesting choice to sue her 5 year old nephew. Thinkers might think that there must have been some sort of ongoing family dispute, which is often the case in lawsuits involving family members. In the actual case, Brian's

Now that we know what a simple case of battery looks like, let's take a look at one of the most famous battery cases ever:

The Chair Case

(Garrett v. Dailey, 49 Wash. 2d 499, 304 P.2d 681 (1956))

Brian is five years old, and his aunt has sued him for battery. His aunt claims that Brian saw that she was about to sit down in a chair and pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor, seriously hurt her hip, and had to pay \$11,000 in hospital bills.

Is Brian liable for a battery? Vote.

thinkAnalysis

Now, let's consider the checklist of battery elements:

- 1) **Intentional**
- 2) **Contact with another person**
- 3) **Harmful or offensive**
- 4) **Cause damages**

Remember, to prove that a battery occurred, a plaintiff has to prove all four of these elements.

Complete the following chart:

TABLE 3B - SUGGESTED LINE OF QUESTIONING

ELEMENT OF BATTERY	EVIDENCE SUPPORTING ELEMENT (PLAINTIFF)	EVIDENCE AGAINST ELEMENT (DEFENDANT)	WHICH EVIDENCE IS STRONGER?
1) Brian's act was intentional	He pulled out the chair right before she sat down, so that shows that he must have known what he was doing.	Brian is only five. He was too young to realize what he was doing.	Plaintiff or Defendant
2) Brian's act involved contact with another person	Brian's actions caused his aunt to fall and make contact with the floor.	Brian did not actually touch his aunt, he just touched the chair. (What if Brian shot his aunt? That would not be actual touching either so would that be okay?)	Plaintiff or Defendant
3) Brian's act was harmful or offensive	His aunt hurt her hip and had to go to the hospital.	It was just a prank that was not meant to be harmful.	Plaintiff
4) Brian's act caused damages	His aunt had \$11,000 in medical bills.	None	Plaintiff

thinkBigPicture

Before we do another poll, let's examine the big picture. In this case, an aunt is suing her five year old nephew because he pulled out a chair from under her and she ended up with \$11,000 in hospital bills. Is there anything strange about this case? Would you sue your 5 year old nephew if he did this to you? Why do you think she is suing her own family member?

Final vote: Is Brian liable for a battery? Take a poll.

Brian was actually five years and nine months old when this happened. Does this change your thoughts about whether Brian is liable for battery? Why or why not?

Second final vote: Now that we know Brian was actually five years and nine months old, is Brian liable for a battery? Take a poll.

Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do.

Third final vote: Is Brian liable for a battery? Take a poll.

Instructor's Note:

Poll your Thinkers at this point to see how many people believe Brian is liable for a battery if the aunt's story is true. Initial reactions to facts are important because when a jury hears a case like this, people sitting in a jury may also have emotional reactions.

Also, many Thinkers will ask for more information before making a decision. But in this case (like the real world), there is no additional information. Push Thinkers to look very closely at the given facts rather than speculating about missing information.

parents had a home insurance policy that would have covered his aunt's injuries if Brian was found liable for battery. This is probably the major reason why this lawsuit happened.

Additional Probing Questions

Is there any other reason, not based on evidence, that Brian should or should not be liable for the lawsuit?

Would you want to live in a world where it was okay to sue a 5 year old for damages caused by their pranks? Why or why not?

Would you want to live in a world where an adult could sue for serious medical injuries because the person who harmed him or her was only 5 years old? Why or why not?



The Chair and the Stick (Part I): Applying legal rules from multiple perspectives

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TABLE 3A

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Summary of thinkStarter

If you hit someone, the person can sue you for battery – which is just a fancy word for hitting someone. If you commit a battery and get sued, you will be the defendant, and the plaintiff could win a lawsuit against you. If the plaintiff wins, you will be

liable for battery. In other words, you will have to pay the plaintiff money for the harm you caused.

thinkHypothesis

Based on the discussion in the thinkStarter activity, write a rule for battery in the space below.

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Legal Rule: Battery

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Brian is five years old, and his aunt has sued him for battery. His aunt claims that Brian saw that she was about to sit down in a chair and pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor, seriously hurt her hip, and had to pay \$11,000 in hospital bills.

Is Brian liable for a battery? Vote.

thinkAnalysis

Now, let’s consider the checklist of battery elements:

- 1)
- 2)
- 3)
- 4)

Remember, to prove that a battery occurred, a plaintiff has to prove all four of these elements.

Complete the following chart:

TABLE 3B - SUGGESTED LINE OF QUESTIONING

ELEMENT OF BATTERY	EVIDENCE SUPPORTING ELEMENT (PLAINTIFF)	EVIDENCE AGAINST ELEMENT (DEFENDANT)	WHICH EVIDENCE IS STRONGER?
1) Brian’s act was intentional			
2) Brian’s act involved contact with another person			
3) Brian’s act was harmful or offensive			
4) Brian’s act caused damages			

thinkBigPicture

Before we do another poll, let’s examine the big picture. In this case, an aunt is suing her 5 year old nephew because he pulled out a chair from under her and she ended up with \$11,000 in hospital bills. Is there anything strange about this case? Would you sue your 5 year old nephew if he did this to you? Why do you think she is suing her own family member?

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Brian’s aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do.

Third final vote: Is Brian liable for a battery? Take a poll.

Summary of Chair Case

The Court decided that Brian was liable for the battery, but the final result does not matter – what matters is the critical thinking the Court went through to reach its decision. The Court explained that even though Brian did not touch his aunt, he pulled out her chair just before she sat down. Therefore, her injury was “substantially certain” to occur. It did not matter that Brian may have not meant to hurt her. All that mattered is that he meant for her to hit the ground instead of her chair. Therefore, Brian was liable for battery.

thinkBigger

The Bicycles

(*Menagh v. Breitman*, S.C.N.Y., Case No: 107856/09, Doc. No. 002)

Juliet was 4 years old when she and her 5 year old friend Jacob raced their bicycles down a sidewalk in Manhattan, New York. Juliet’s mother and Jacob’s mother were watching them, and their bicycles still had training wheels on them. They crashed into Claire, an 87 year old woman who was walking on the sidewalk. Claire broke her hip and sued Juliet, Jacob, and their mothers for crashing into her.

- 1) Should Juliet and Jacob be liable for a battery against Claire? Why or why not?
- 2) Are Juliet’s and Jacob’s actions worse than Brian’s in the Chair Case? Why or why not? (Compare specific facts from The Chair Case to the this case in your answer).

