

# thinkLaw Curriculum

## Comprehensive Teacher Guides



Less than 20 Minutes Prep Time!

Includes Over 500 Probing Discussion Questions!

## Student Work Pages



Available as Workbooks or Electronically

Compatible with Google Classroom

## PowerPoint Presentations

Each Lesson has a pre made PowerPoint and/or Google Slide Presentation

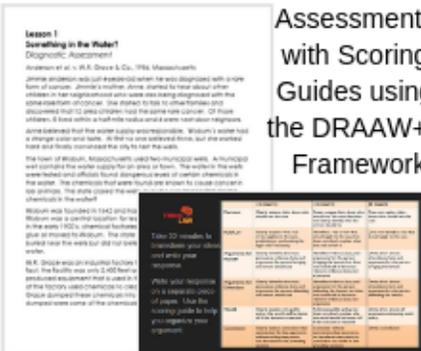


## Additional Lessons



thinkLaw Users have Access to a Library of over 50 Additional thinkLaw Lessons

## Writing Assessments



Assessments with Scoring Guides using the DRAAW+C Framework

## Braincandy

Online Database of over 1,000 questions that accompany all thinkLaw Lessons



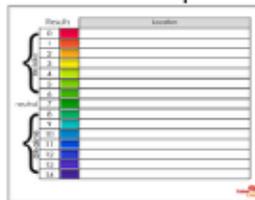
## Extension Activities

Additional Extension Activities to Review Math, Writing, and Science Skills Using Social Justice as a Motivator!



## Project-Based Learning Experiences

Allow Students Real-World Opportunities for Active Citizenship



## Comprehensive Teacher Onboarding



Training Video Calls to Explain the thinkLaw Approach and Materials

All thinkLaw Materials are Standards Aligned!



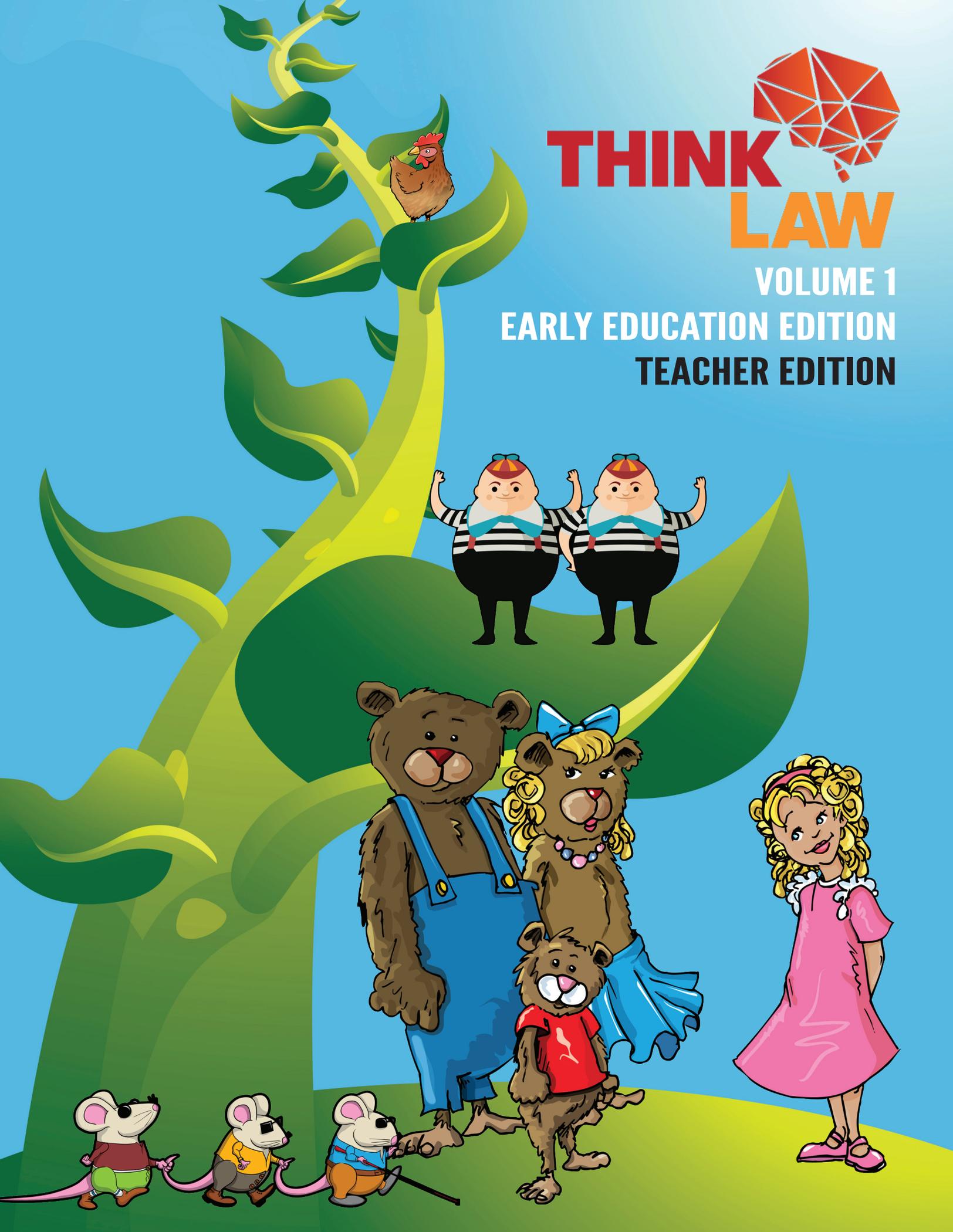
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# THINK LAW

VOLUME 1  
EARLY EDUCATION EDITION  
TEACHER EDITION





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## Teaching Principles for thinkLaw

Teaching critical thinking requires a lot of time, preparation, and skill. The thinkLaw Early Elementary Edition, PowerPoint presentations, and student workpages 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 3 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, this 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 and to ask questions. Conduct small group work and discussions. Ask thinkers to vote on their own opinions throughout a 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 mini-version of law school. thinkLaw merely uses real-life legal strategies to teach a wide variety of critical thinking skills. Our secondary curriculums use real-life legal cases as a tool. The Early Elementary edition replaces those legal cases with fairy tales, folk tales, and nursery rhymes. There is no need for instructors to have any background or understanding of the law or legal practiced.

### **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 Early Elementary lessons ask thinkers to write or re-write the endings of stories. Thinkers may or may not agree with the outcome of the stories. They are pushed to evaluate the outcomes.

## thinkLaw tools: Using the Teacher's Edition

The thinkLaw Early Elementary Edition contains all of the teacher directions as well as student sheets.

1. Text written in black are suggested language to use while teaching a lesson. Text written in red are teacher notes and suggestions.
2. The student workpages for each lesson are located at the back of the teacher's instructional notes.

### Using thinkLaw Early Elementary PowerPoint Presentations

thinkLaw Early Elementary PowerPoint presentation are an important lesson component. Images of the slides are embedded in the teacher's notes and script. Early elementary students are visual learners and the images on the slides are an crucial part of the thinkLaw program.

### Using the Instructor's Notes

Instructor's notes are spread 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.

### Planning thinkLaw Lessons

thinkLaw lessons are designed to allow for deep discussion and thinking. Depending on your thinkers, some parts of lessons may take more time than others. As a general rule, plan to spend about 30 minutes per lesson. This teacher's edition lays out three 30 minute lessons per week but the program is designed to be flexible. But because thinkLaw is not about teaching content, thinkers do not lose value if it takes more time than expected to complete a thinkLaw lesson.

### Aligning thinkLaw with Common Core Standards

Every thinkLaw lesson (excluding assessments) starts with a table showing the lesson's alignment with Common Core English and Language Arts Standards for grade levels K-2.

### Flexibility

thinkLaw is designed for use with all students. Thinkers in grades K-2 have varying levels of writing skill. All thinkLaw student response sheets are designed so that thinkers can respond by drawing, writing, or a combination of both. This flexibility allows all young thinkers to approach critical thinking without barriers.



## Lesson 1



# Peter Peter Pumpkin Eater: Introduction

Objective: Thinkers will predict the species of Peter the Pumpkin eater, determine his wife's feelings about being kept in a pumpkin, and justify their choices with reasoned evidence.

## Lesson Outline

1. During the thinkStarter thinkers will be introduced to the idea that thinking hard is exercise for their brains.
2. After reading the nursery rhyme, "Peter Peter Pumpkin Eater," thinkers will deduce the species of Peter.
3. Thinkers will consider the ending line of the poem, "He put her in a pumpkin shell and there he kept her very well." They will determine how Peter's wife must be feeling and justify their response with supporting evidence.

## Materials

Peter Pumpkin Eater  
PowerPoint  
Presentation



Peter Pumpkin Eater  
Student Response  
Sheets

A student response sheet for the nursery rhyme. It includes a name line, the text of the rhyme, a large empty box for drawing, and a writing prompt at the bottom. The rhyme text is: "Peter, Peter pumpkin eater / Had a wife who couldn't bear him / He put her in a pumpkin shell / And there he kept her very well." The drawing prompt is: "What do you think Peter's wife is feeling? How do you know?" There is a small pumpkin icon next to the drawing box.

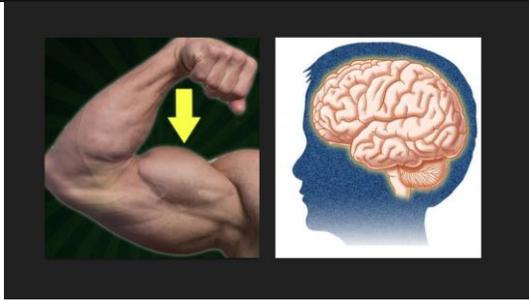
Thinker Materials:  
Writing Utensils

# Common Core Content Standards

	KINDERGARTEN	FIRST GRADE	SECOND GRADE
RI1	With prompting and support, ask and answer questions about key details in a text.	Ask and answer questions about key details in a text.	Ask and answer such questions as <i>who</i> , <i>what</i> , <i>where</i> , <i>when</i> , <i>why</i> , and <i>how</i> to demonstrate understanding of key details in a text
W2	Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.	Write informative/explanatory texts in which they name a topic, supply some facts about the topic, and provide some sense of closure.	Write informative/explanatory texts in which they introduce a topic, use facts and definitions to develop points, and provide a concluding statement or section.
W3	With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	Write narratives in which they recount two or more appropriately sequenced events, include some details regarding what happened, use temporal words to signal event order, and provide some sense of closure.	Write narratives in which they recount a well-elaborated event or short sequence of events, include details to describe actions, thoughts, and feelings, use temporal words to signal event order, and provide a sense of closure.
SL1.1 & SL1.2	Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion). Continue a conversation through multiple exchanges	Follow agreed-upon rules for discussions (e.g., listening to others with care, speaking one at a time about the topics and texts under discussion). Build on others' talk in conversations by responding to the comments of others through multiple exchanges	Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion). Build on others' talk in conversations by linking their comments to the remarks of others.

## Peter Peter Pumpkin Eater: Introduction

### thinkStarter



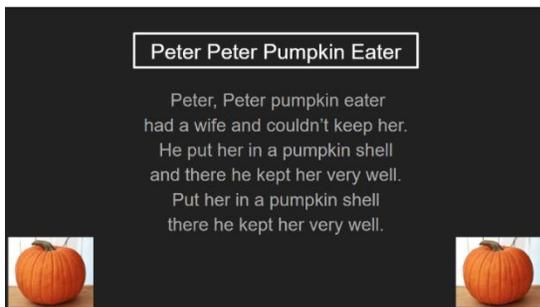
Muscles get big and strong when you exercise. [Click to make picture of the brain appear.](#)

But did you know that your brain can get bigger and stronger? What do you think you can do to make your brain big and strong?

[Allow thinkers to respond.](#)

In class, we do a lot of things to exercise your brain. But we're going to start doing some new brain exercises by thinking really hard about stories and poems and asking lots of questions! Are you ready to get started?

### thinkAnalysis



This nursery rhyme is called "Peter, Peter Pumpkin Eater."

You may have heard this poem before.

[Read the poem aloud.](#)

Raise your hand if you have heard this poem before.

Some of you may have heard this poem before and, for some of you, today might be the first time.

This nursery rhyme makes me have a LOT of questions. Does it make you have questions? What questions do you have about this poem? [Give thinkers the opportunity to share their questions.](#)

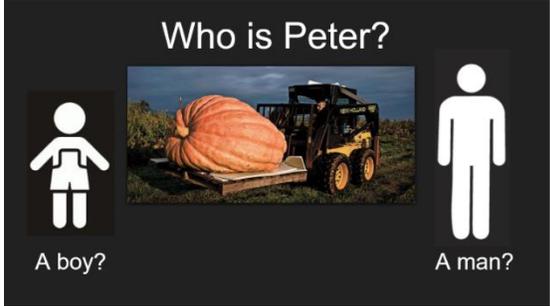


My first question is who is Peter?

What do we know about Peter?  
The poem doesn't give a lot of information but we know that Peter eats pumpkins, had a wife, and he put his wife in a pumpkin

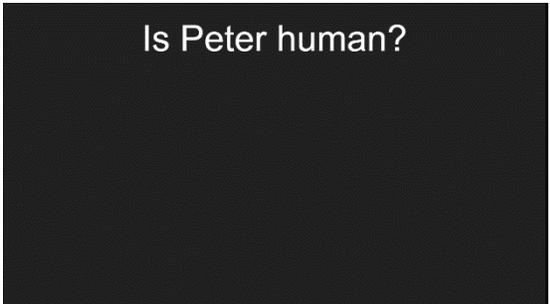
shell.

When you click on the slide, the images will appear.



Could Peter be a boy or do you think he's a man? Why did you pick boy/man?

Thinker responses will vary. Many thinkers might choose man since it says that Peter is married



Do you think Peter is human? Why or why not?

Thinker responses will vary. The most important part of any response is the justification. A thinker's reasoning that Peter could be an animal might be that people don't fit in most pumpkins.

What kind of animal could Peter be? What would eat a pumpkin?

When you click on the slide, the images will appear. Go through each animal individually.

## Is Peter human?



A tiger?



A giraffe?



A mouse?

Do you think Peter could be a tiger? Why or why not?

Most thinkers will probably argue no because tigers eat meat and a pumpkin is a fruit.

Do you think Peter could be a giraffe? Why or why not?

Most thinkers will probably argue no because giraffes are very big and couldn't fit in a pumpkin. However giraffes do eat plants.

Do you think Peter could be a mouse? Why or why not?

It is reasonable to think that Peter might be a mouse. A mouse would eat a pumpkin and would be small enough to fit inside a pumpkin.

What other animals could Peter be?

You could keep a list of possible animals on the board. Sample responses might be a squirrel, chipmunk, rat, rabbit, etc.

Your turn:

Name \_\_\_\_\_  
**Peter Pumpkin Eater**  
Peter, Peter pumpkin eater  
had a wife and couldn't keep her.  
He put her in a pumpkin shell  
and there he kept her very well.  
Put her in a pumpkin shell  
there he kept her very well.  
Who or what is Peter? How do you know?



Your turn to tell me.

Who or what do you think Peter is?

Thinker responses will vary. Depending on the age your learners, responses may be pictures, writing, or a combination of both.

Give thinkers time to respond and share.

What does it mean that Peter has a wife and couldn't keep her?



What does it mean that Peter had a wife and couldn't keep her?

There are a lot of possible answers to this question. Maybe Peter's wife was tired of him eating pumpkins all of the time and so she'd run away. Maybe if Peter

and his wife are mice, she's in danger and birds and cats are trying to eat her. Allow thinkers to share their thoughts and follow up with the question "Why?" to make sure that they explain their reasoning.

Your turn:



Your turn to tell me.

What does it mean that Peter had a wife and couldn't keep her?

Thinker responses will vary. Depending on the age your learners, responses may be pictures, writing, or a combination

of both. When thinkers are finished allow them to share their responses.

He put her in a pumpkin shell and there he kept her very well.



The last part of the rhyme tells us that "He put her in a pumpkin shell. There he kept her very well."

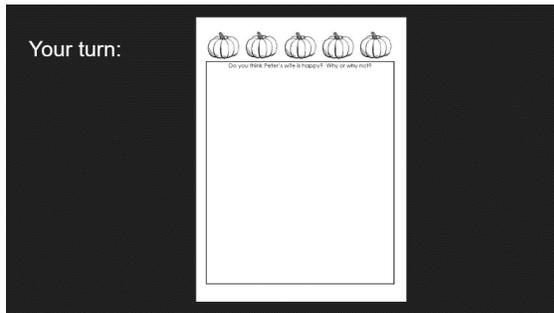
What do you think that means?

Do you think his wife is happy? Why or why not?

It says that he kept her very well. How might that mean she's unhappy? How might that mean she's happy?

Thinker's responses will depend largely on their previous responses. If Peter and his wife are mice she might be happy about the

situation. She has a safe place to hide. They could have decorated the pumpkin really nicely and it could be really cozy. If she's been trying to escape and it's more of a prisoner situation she might be more upset about being put in a pumpkin shell.



Your turn to tell me.  
What does it mean that Peter put her in a pumpkin shell and there he kept her very well?

Thinker responses will vary.

When thinkers are finished allow them to share their responses.

I want to thank you for your hard work and big thoughts for today. We're going to keep looking at fairy tales and nursery rhymes to exercise our brains!



**THINK**  
**LAW**

VOLUME 2  
EARLY EDUCATION EDITION  
TEACHER EDITION



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## Lesson 7

# Why the Pineapple has 1,000 Eyes

## *Settlement and Negotiation*

Objective: Thinkers will analyze problems faced by characters in the story and determine why the problems are occurring. Thinkers will devise solutions to the problems faced by the characters.

### Lesson Outline

1. Thinkers will begin by sharing experiences with lost shoes and how their parents responded.
2. Thinkers will listen to the story "Why the Pineapple has 1,000 Eyes." Thinkers will analyze the problems faced by the characters in the story. They will determine why the mother and daughter are having those problems and create solutions the characters could implement.
3. Thinkers will examine a picture of a strawberry and make observations. They will then extend their thinking by writing a story about a child who turns into a strawberry.

### Materials

Why the Pineapple  
PowerPoint  
Presentation



Why the Pineapple  
Student Sheet

The image shows a student sheet template. At the top, it says "Name" and "Date". Below that is the title "Why the Pineapple has 1,000 Eyes". The main body of the sheet is a grid with four columns and two rows. The first two columns are labeled "What is the problem?" and the last two columns are labeled "What is the solution?". There are small icons of a person in each of the four quadrants. Below the grid, there is a section labeled "How could this story have ended?".

Thinker Materials:  
Writing Utensils

**\*Optional\***  
Bring in a real  
pineapple for  
students to examine

# Common Core Content Standards

KINDERGARTEN	FIRST GRADE	SECOND GRADE
RL.K.3 With prompting and support, identify characters, settings, and major events in a story.	RL.1.3 Describe characters, settings, and major events in a story, using key details.	RL.2.2 Recount stories, including fables and folktales from diverse cultures, and determine their central message, lesson, or moral.
RL.K.10 Actively engage in group reading activities with purpose and understanding.	RL.1.10 With prompting and support, read prose and poetry of appropriate complexity for grade 1.	RL.2.3 Describe how characters in a story respond to major events and challenges.
W.K.8 With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	W.1.8 With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	W.2.8 Recall information from experiences or gather information from provided sources to answer a question.
SL.K.3 Ask and answer questions in order to seek help, get information, or clarify something that is not understood.	SL.1.3 Ask and answer questions about what a speaker says in order to gather additional information or clarify something that is not understood.	SL.2.3 Ask and answer questions about what a speaker says in order to clarify comprehension, gather additional information, or deepen understanding of a topic or issue.

## Why the Pineapple has 1,000 Eyes

A Folktale from the Philippines

### thinkStarter

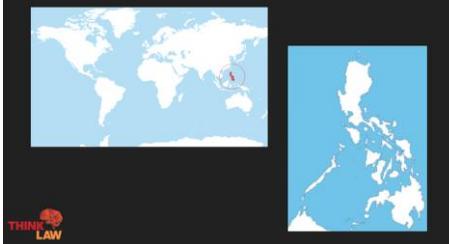


Raise your hand if you've ever lost one of your shoes at your house. Why was your shoe missing? **Allow thinkers to share their responses. Thinkers might say their shoe was missing because they did not put it away in the correct spot.**

- What do your parents say when you lose a shoe?
- Are they grumpy?
- What if they're trying to go somewhere and they're going to be late because they must find your shoe?
- Are they grumpy if it's only happened one time?
- Are they grumpier if it's happened a lot of times?
- Do they help you look?

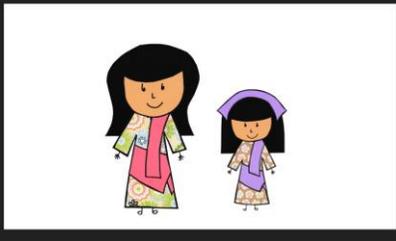
**Allow thinkers to share their responses. Remember, in thinkLaw lessons you don't need to ask every, single question! Pick and choose the best questions for your class. Some thinkers will probably share that their families start to get frustrated over missing shoes.**

Sometimes kids have trouble finding things. They might ask their parents over and over to help them look. If you were a mom or dad, would you be grumpy if your kid always had trouble finding things? Why or why not? **Allow thinkers to share their responses.**



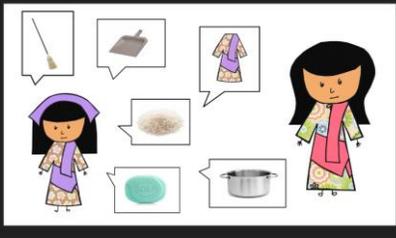
Our story today is from the Philippines. The Philippines is an island country in Asia. The story is called "Why the Pineapple has 1,000 Eyes," and it's about a girl who had trouble finding things.

## thinkStory



Once upon a time, there was a widow named Rosa. Rosa had a 10-year-old daughter named Pingang whom she loved very much.

Rosa wanted Pingang to grow up and know how to do housework, so she taught her how to take care of their home and gave Pingang many chores.



Pingang always argued with her mother. Whenever Rosa tried to teach Pingang something new, Pingang would tell her mother that she already knew what to do.

But whenever Pingang had chores to do, she always had many questions for her mother.

Where is the broom? (Click to make the broom appear.)

Where is the dust pan? (Click to make the dust pan appear.)

Where is the rice? (Click to make the rice appear.)

Where is the soap? (Click to make the soap appear.)

Where is the pot? (Click to make the pot appear.)

Where is my dress? (Click to make the dress appear.)

Pingang would never look for things herself. She would just ask her mother to find them.

Rosa and Pingang have a problem.	
What is Rosa's problem?	What is Pingang's problem?
Why is Rosa having the problem?	Why is Pingang having the problem?
How could they solve their problem?	

Pingang and her mother are having a problem.

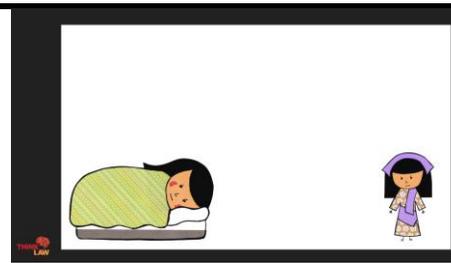
First, let's think about what problem Rosa is having and then about what problem Pingang is having. **Give**

**thinkers time to respond and share their answers. Rosa's problem is that her daughter asks her too many questions. Pingang's problem is that she cannot find anything! Thinkers do not have to give these responses. They may have alternative problems. The most important point is that students can support their ideas.**

Second, why do you think they are having this problem? Why do you think Pingang can't find the items she looks for? **Give thinkers time to respond and share their answers.** Some thinkers might suggest that Pingang isn't paying attention or she just asks her mom instead of looking for what she wants.

Finally, let's think about how they could solve their problem. How could Pingang do a better job of finding the items she's looking for? How would that help Rosa? What solution can you think of that might make them both happy? **Give thinkers time to respond and share their answers.**

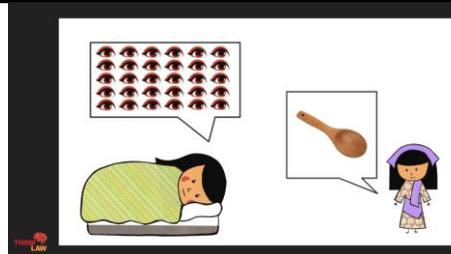
Let's keep reading to see what happens.



One day Rosa got very sick. She could not get out of bed.



Pingang was forced to do all of the housework. All day long she asked her mother questions.

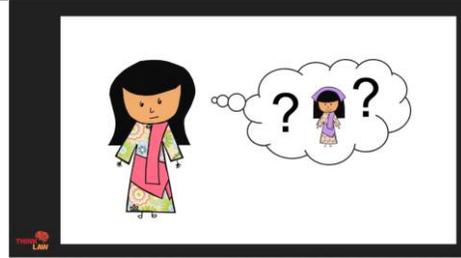


Rosa did not get mad, but she was disappointed that Pingang could not find anything on her own. Rosa was sick for a few more days, so Pingang had to keep taking care of the house.

One day while Pingang was cooking, she could not find the spoon for the rice, so she asked her mother where it was. **(Click to make the spoon appear.)**

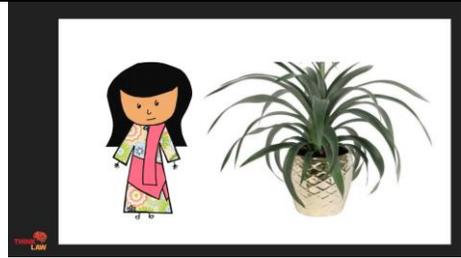
Rosa was fed up with Pingang's questions. "Oh Pingang," she said, "I wish you had 1,000 eyes. **(Click to make the eyes appear.)** If you

had 1,000 eyes, then maybe you could find all of the things yourself and never ask questions again.”



The next morning Rosa was feeling better. She got out of bed. But she could not find Pingang.

She looked outside. She looked in the kitchen. She looked in the basement.



She could not find Pingang. But in the basement, she did find a strange plant growing.

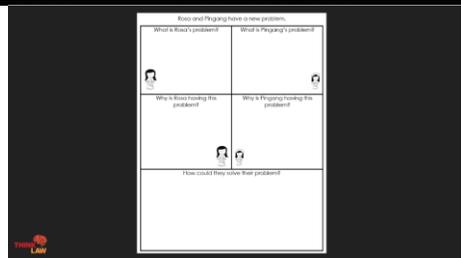
Rosa took the plant and put it in her garden.



The plant grew and soon there was a fruit. The fruit was shaped like a human head and surrounded by many eyes.

Rosa suddenly remembered her last words to Pingang that she wanted her

to have a lot of eyes to find all the things she was looking for. Rosa realized that the plant WAS Pingang. **(Click to make the thought bubble appear.)**



Now Rosa and Pingang REALLY have a problem.

First, let's think about what problem Rosa is having and then about what problem Pingang is having. **Give**

**thinkers time to respond and share their answers. Rosa's problem is that she said something when she was angry and now her daughter has turned into a pineapple! Pingang's problem is that she's a pineapple. Thinkers do not have to give these responses. They may have alternative problems. The most important point is that students can support their ideas.**

Second, why do you think they are having this problem? Why do you do you think Pingang turned into a pineapple? Give thinkers time to respond and share their answers. Some thinkers might suggest that Rosa was very angry when she told Pingang that she wished she had 1,000 eyes and didn't think about what she said.

Next, let's think about how they could solve their problem. How could Pingang turn back to a girl? Give thinkers time to respond and share their answers. Some thinkers might suggest that maybe if Rosa apologized to Pingang, she would turn back into a girl.

Let's keep reading to see how the story ends.



Rosa was very sad, but she took good care of the plant and called it Pingang after her daughter.

Later the fruit was called "pinya" or "pineapple" in English.

What did you think about the ending of the story? Did you like it? Why or why not? Give thinkers an opportunity to respond. Some thinkers might feel like the ending of the story was sad for both Rosa and Pingang.

Were you disappointed that Pingang did not turn back into a girl? Why or why not? Some thinkers might think it's sad that Pingang did not turn back into a girl because Rosa will miss her very much. Others might feel like Pingang and Rosa deserved what happened.

### thinkBigger



Why do you think that the author of this story chose for Pingang to turn into a pineapple?

Do you think a pineapple looks like it has 1,000 eyes? Why or why not?



THINK  
LAW

Now I want you to write a story about a kid who turns into a strawberry.

Let's start by thinking about how strawberries look.

- What color are strawberries?
- What size?
- What shape are strawberries?
- What are these little spots over the outside of the strawberries? (**seeds**) What do the seeds remind you of?
- What is the green part at the top of the strawberries? (**stems**) What do the stems remind you of?

Now that you've had some time to think about strawberries, I want you to write a story about a kid who turns into a strawberry! **Give thinkers time to write and share their responses with the class.**

The student response sheet comes in two formats: one for just drawing and one for drawing and writing. You could also provide students with a few sentence starters such as:

- Once upon a time there was a boy/girl who had a big problem!
- The boy/girl's mom/dad always told him/her...
- The boy/girl never listened. They always did \_\_\_\_\_ instead...

Write a story about a kid that turns into a strawberry.

Write a story about a kid that turns into a strawberry.

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Write a story about a kid that turns into a strawberry.

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**THINK**  
**LAW**

VOLUME I  
THIRD AND FOURTH  
TEACHER'S EDITION

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# Teaching thinkLaw

Teaching critical thinking requires a lot of time, preparation, and skill. This thinkLaw Volume 1 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 through 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, this thinkLaw 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 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 common 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 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 1 and explicitly taught to thinkers in Lesson 11.

**Note: You may want to post the DRAAW+C framework in your classroom so you can regularly reference it throughout the course. Printable posters of DRAAW+C are available for download on IntraLinks.**

# Using the Teacher's Edition

The thinkLaw Volume 1 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 1 PowerPoint Presentations

thinkLaw Volume 1 PowerPoint Presentations are an optional tool that 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 throughout this book. These notes help explain commonly asked questions, provide tips about organizing lessons, and offer several "probably questions" to help thinkers get a deeper understanding of the material. You do not need to ask thinkers every probing question suggested in the Teacher's Edition. Pick and choose the best questions for your class.

## Using the Student Workbook

The thinkLaw Volume 1 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.

## Aligning thinkLaw with Content Standards

Every thinkLaw lesson (excluding the assessments and the introductory lesson) starts with a table showing the lesson's alignment with Common Core English and Language Arts Standards for grades 3-4.

## 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:

1. **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: Doodle Notes and an accompanying PowerPoint presentation on these guidelines are available for download on IntraLinks.**



# 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, there are a few options with Lesson 0:

- Complete the “Guidelines for Civil Conversations” doodle note lesson.
- Complete the thinkLaw student pre-survey.
- Complete the Lesson 1 Diagnostic Writing Assessment.



## Lesson 0

### Introduction to thinkLaw

#### About thinkLaw

Many important United States and world leaders have been lawyers. Law is a universal language that controls almost everything around us. Imagine how powerful your mind could be if you learned to think like a lawyer!

thinkLaw will help you learn to think critically using real-life law cases. You will learn how to argue both sides of a case, conduct investigations, settle disputes, make difficult decisions, and write persuasively.

#### Tips for thinkLaw Success

### 1. It's okay to not be 100% sure.

There are no right or wrong answers in thinkLaw. You should not worry about being right and you should never say, “I don't know!”

### 2. Stick to the facts.

Almost all thinkLaw lessons are based on real life cases. Do not make up your own facts.

### 3. Read and listen carefully.

Pay attention to every sentence and every word. But sure to watch out for missing information! Listen to the other thinkers in your class. They will help you think of more ideas.

### 4. Use the workbook.

Your workbook will help you organize your thoughts and ideas for each lesson. Be sure to use the tables, boxes, and other tools in this workbook.

### 5. Do not look ahead.

Keep your workbook folded and only look at one page at a time. No peeking!

2

## Probing Questions:

- Do you think that the questions raised by legal cases have only one right answer? Why or why not?
- Is the decision reached by the Court automatically correct? Why or why not?
- Can you think of examples of times the Court's rulings have been wrong? What things used to be legal in the United States that are no longer legal today?
- Why do we take time in class to discuss issues and problems that do not have a correct answer? How does that help you to become a stronger thinker?

## Lesson 3

# The Chair and the Stick (Part 1)

Applying Legal Rules from Multiple Perspectives



**Objective:** Thinkers will use their personal knowledge 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.

**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.
3. Thinkers will apply the rule from the chair case to determine if a battery occurred in the bicycle case.

### COMMON CORE CONTENT STANDARDS

	RI1	W1	W2	SL1
GRADE 3	Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.	Write opinion pieces on topics or texts, supporting a point of view with reasons.	Write informative/explanatory texts to examine a topic and convey ideas and information clearly.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 3 topics and texts</i> , building on others' ideas and expressing their own clearly.
GRADE 4	Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.	Write opinion pieces on topics or texts, supporting a point of view with reasons and information.	Write informative/explanatory texts to examine a topic and convey ideas and information clearly.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 4 topics and texts</i> , building on others' ideas and expressing their own clearly.

## The Chair and the Stick

Part 1  
Applying Legal Rules from Multiple Perspectives



### Instructor's Note:

Have thinkers brainstorm reasons to hit someone first. Then ask them "Why?" several times to spark deeper discussion.

### Instructor's Note:

Have thinkers write what they think might be the rule for legal battery in the box. Thinkers should consider the reasons they brainstormed of times that it is okay to hit someone when they write their rule.

### Braincandy Questions:

- (3.1) Should you ever be able to hit someone without getting in trouble for it? Why or why not?
- (3.2) What do you think is the legal definition of battery?

### Instructor's Note:

Thinkers may copy the 4 elements of battery off of a slide in the Lesson 3 PowerPoint.

## Lesson 3

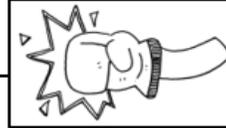
### The Chair and the Stick (Part 1)

#### Applying Legal Rules from Multiple Perspectives

##### thinkStarter

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

Reasons to hit someone	Why should this reason keep you from getting into trouble?
You should be able to hit someone in self-defense.	You should not get in trouble for self-defense because you were protecting yourself.
You should be able to hit someone if they give you permission to hit them. For example, if you are a boxer.	If you are in a boxing match or someone gives you permission to hit them, you aren't doing anything wrong.



##### Summary of thinkStarter

If you hit someone, that person can sue you for **battery**. Battery is a fancy word for hitting someone. If you commit a battery and get sued, you will be the **defendant**. The **plaintiff** is the person suing you.

What do you think is the rule for battery?  
 Thinkers' rules should focus on when it is not okay to hit someone else.

There are four elements that make hitting someone a battery. A battery must meet all four elements.

1. Intentional (on purpose)
2. Contact with another person
3. Harmful or offensive
4. Cause damages

##### Legal Definition: Battery

To prove that a battery happened, a plaintiff must prove all four elements. That a battery was...

- Intentional (on purpose)
- Contact with another person
- Harmful or offensive
- Cause damages



**The Chair**

(Garrett v. Daily, 1956, Washington)

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

Do you think Brian is liable (responsible) for battery?

- Yes
- No



Did Brian's actions meet all 4 requirements?

Element 1: Brian's act was on purpose.	
How will Brian's aunt argue that Brian's act was on purpose?	How will Brian's lawyer argue that Brian's act was NOT on purpose?
He pulled out the chair right before she sat down, so that shows he must have known what he was doing.	Brian is only five. He was too young to realize what he was doing.
What do you think? Why?	
Responses will vary.	

Element 2: Brian's act involved contact with another person	
How will Brian's aunt argue that Brian's act involved contact with another person?	How will Brian's lawyer argue that Brian's act did NOT involve 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 do you think? Why?	
Responses will vary.	

**Instructor's Note:**

Poll your thinkers at this point to see how many people believe Brian is liable for 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.

Many thinkers will want more information. 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.

**Probing Questions:**

- 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?

**Braincandy Questions:**

- (3.3) Poll: Is Brian liable for battery?
- (3.4) Poll: Which element of battery do you think will be the most difficult for the aunt to prove?

**Probing Questions:**

- 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?

**Instructor's Note:**

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.

Element 3: Brian's act was harmful or offensive	
How will Brian's aunt argue that Brian's act was harmful or offensive? <b>His aunt hurt her hip and had to go to the hospital.</b>	How will Brian's lawyer argue that Brian's act was NOT harmful or offensive? <b>It was just a prank that was not meant to be harmful.</b>
What do you think? Why? <b>Responses will vary.</b>	

Element 4: Brian's act caused damages	
How will Brian's aunt argue that Brian's act caused damages? <b>His aunt broke her hip and had \$11,000 in medical bills.</b>	How will Brian's lawyer argue that Brian's act did NOT cause damages? <b>None</b>
What do you think? Why? <b>Responses will vary.</b>	

**thinkBigPicture**

Would you sue your 5-year-old nephew if he did this to you? Why or why not?

**Thinker responses will vary.**



**Probing Questions:**

- Is there any 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?

Why do you think she is suing her own family member?

Thinker responses will vary. Thinkers usually feel that there is something else going on. Thinkers may wonder if there is family drama. Thinkers may wonder if the aunt just really needs money.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

**NEW FACT:** Brian was actually 5 years and 9 months old when this happened. Does that change your mind about whether Brian is responsible? Why or why not?

Usually thinkers do not change their minds based on this fact. You may remind thinkers that Brian was probably at the end of his kindergarten year. 

Do you think Brian is liable (responsible) for battery?

- Yes
- No

**NEW FACT:** 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. Does that change your mind about whether Brian is responsible? Why or why not?

Ask thinkers how both sides will argue this fact to support their case. Brian's attorney will say that Brian can't see arthritis and probably doesn't know what it is. The aunt's attorney will say that Brian had to wait longer for his aunt to sit down, so he had a lot of time to change his mind. 

Do you think Brian is liable (responsible) for battery?

- Yes
- No

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

**Braincandy Questions:**

- (3.5) New Information: Brian was actually five years and nine months old when this happened. Poll: Is Brian liable for battery?
- (3.6) New Information: Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than other adults. Poll: Is Brian liable for battery?
- (3.7) What is Brian's strongest evidence?
- (3.8) What is the aunt's strongest evidence?

**Instructor's Note:**

In this case, it did not matter that Brian may not have 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.

**Instructor's Note:**

Thinkers should find that the answer to the thinkBigger depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. In the actual case, Claire did not sue Juliet and Jacob for battery. She sued for negligence, which basically means that Juliet, Jacob, and their parents violated their duties to make sure their children rode their bikes safely.

Your teacher will tell you what happened in the real case. What do you think about the decision?  
**The Court decided that Brian was liable for the battery, but the final result does not matter. What matters is how the Court thought about the case. 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.**

**thinkBigger**

(Menagh v. Breitman, 2010, New York)

Juliet was 4 years old when she and her 5-year-old friend Jacob raced their bikes down a sidewalk in New York. Juliet and Jacob's mothers were watching them. Their bikes still had training wheels. The children crashed into Claire, an 87-year-old woman who was walking on the sidewalk. Claire broke her hip. She sued Juliet and Jacob for battery.

How is this case like the chair case?	How is this case different from the chair case?
<ul style="list-style-type: none"> <li>Both cases involve 5-year-old children who caused serious harm to an adult.</li> <li>The woman in both cases broke their hips.</li> </ul>	<ul style="list-style-type: none"> <li>The chair case involved a boy who pulled out a chair as someone was sitting down.</li> <li>The bike case involved two children crashing into a woman on the sidewalk.</li> </ul>

Do you think Juliet and Jacob are liable (responsible) for battery?

- Yes
- No

Why?

**Thinkers should find that the answer depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. The act must be intentional for it to be considered battery.**



**Braincandy Question:**

- (3.9) Poll: Should Juliet and Jacob be liable for a battery against Claire?



**ENVIRONMENTAL JUSTICE EDITION**  
**THIRD AND FOURTH GRADE**  
**TEACHER MATERIALS**

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## Lesson 6:

# Something Stinks!

## Settlement and Negotiation Strategy



**Objective:** Thinkers will identify negotiation and settlement strategies and apply these strategies to identify ways to settle a dispute that traces all the way back to the 160s.

### Lesson Outline:

1. In the thinkStarter, thinkers will analyze the very first environmental law case in recorded history.
2. Thinkers will consider a modern case that is very similar to the case from 1600.
3. Thinkers will consider arguments from both sides of the case and determine which party should be trying to settle.
4. Thinkers will create a negotiation strategy and make an opening offer.
5. Thinkers will create a rule regarding chickens in urban neighborhoods.

## COMMON CORE CONTENT STANDARDS

	RI1	W4	SL1	SL3
GRADE 3	Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.	With guidance and support from adults, produce writing in which the development and organization are appropriate to task and purpose.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 3 topics and texts</i> , building on others' ideas and expressing their own clearly.	Ask and answer questions about information from a speaker, offering appropriate elaboration and detail.
GRADE 4	Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.	Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 4 topics and texts</i> , building on others' ideas and expressing their own clearly.	Identify the reasons and evidence a speaker provides to support particular points.

Lesson 6

# Something Stinks!

## Settlement and Negotiation Strategy

### thinkStarter



The very first environmental law case happened in 1610. William Aldred and Thomas Benton were neighbors with a big problem.

Thomas built and used a pig sty on Thomas's personal property. William was angry because he and Thomas were neighbors, and Thomas's pig sty was right by William's house. William said that the smell was so terrible that it made living in his home unbearable.

William accused Thomas of the "stopping of wholesome air" and filed a lawsuit against him.



Have you ever smelled a pig sty? <input type="checkbox"/> Yes <input type="checkbox"/> No	Would you be upset if someone built a pig sty right by your house? <input type="checkbox"/> Yes <input type="checkbox"/> No
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If you were the judge in this case, what would you decide?

Thinkers might say that they would side with William because Thomas should have built his sty further away from William's house. Others might say that Thomas is free to do what he likes on his property, and Thomas should be able to put the pig sty wherever he'd like.



### PowerPoint



#### Instructor's Note:

Allow thinkers to share their responses to these two questions. If there are thinkers in the class who have never smelled a pig sty, allow other thinkers to share about their experiences.

#### Instructor's Note:

The court ruled that the smell from the sty was enough to strip William of his property and dignity. Therefore, it was a violation of his honor!

- Neighbors are always going to complain about other neighbors, but when should the Court become involved?
  - What if your neighbor doesn't like your dog?
  - What if your neighbor doesn't like the color of your house?
  - What if your neighbor thinks your grass is too high, or your trees need trimmed?
- Should you be able to do whatever you want with your own property? Why or why not?
- Aldred's case took place in 1610. Why do you think Thomas had pigs? Do you think the reason Thomas had pigs is important to the outcome of this case? Why or why not? What if Thomas needed the pigs for food for his family? Should that matter? Why or why not?

How many years passed between the Aldred case and the McKiver case? (2018 - 1610 = 408 years) Does it surprise you that people are having similar problems 400 years later? Why or why not?

**Probing Questions:**

- Which complaint do you think is the worst? Why?
- Which complaint do think would be the most upsetting to your family? Why?
- Which problem would be the most difficult for the hog farm to fix?

**Instructor's Note:**

Explicitly discussing "gut reactions" is an effective way to being to develop maturity in critical thinking. Everyone has a gut reaction to hearing a story for the first time. It's important for thinkers to recognize their gut reactions and then stop to collect more information and/or take time to analyze.

**Instructor's Note:**

It would be simple for thinkers to just suggest shutting down the hog

farm. However, it's important to consider the larger impact shutting down hog farms or asking hog farms to pay out large settlements could have on the economy of an area. There are a lot of other industries that support and depend on these types of large animal farms.

**Probing Questions:**

- Do you think people who live out in the country should assume that they might live next to farms that smell? Why or why not?
- How much should something smell before the government steps in?

**Braincandy Questions:**

- (11.1) Poll: Have you ever smelled a pig sty?
- (11.2) Poll: Would you be upset if someone built a pig sty by your house?
- (11.3) Poll: Which of the neighbors' complaints is the most serious?
- (11.4) What is your "gut reaction" to these complaints?

**thinkStarter Summary**

You would think that a problem that occurred in 1610 would not still be a problem today! But we're going to look at a modern lawsuit where the plaintiff has almost the exact same complaint as William Aldred.

**Something Stinks** (McKiver et al v. Murphy-Brown, LLC, 2018, North Carolina)

Kinlaw Farms is licensed to keep 14,688 hogs. Hogs poop three times more than humans! The waste produced by the hogs at Kinlaw Farms is much greater than the waste produced by the nearby towns. Each year, the hogs at Kinlaw Farms produce millions of gallons of manure.



A group of families near the farms gathered together to say, "Something stinks!" Here are a few of their complaints:

1	The smell that comes from millions of gallons of manure is very bad.
2	The waste has created an insect and vermin invasion. Vermin are creatures like mice and rats. The families complain that they cannot enjoy outdoor activities, such as cookouts, because of the bugs. The bugs get inside their homes, their cars, and many families are worried the insects carry diseases.
3	The farm has huge trucks coming and going 24 hours a day. The noise from the trucks never stops. The bright lights from the trucks shine into their windows at night. The families are also worried that liquid spills out from the trucks onto their properties.

The neighbors joined together to sue Kinlaw Farms.

What is your "gut reaction" to their complaints? Why?



Some thinkers might feel that if you choose to live in the country these are problems that you should anticipate facing. Other might say that the farm is unreasonably disruptive to its neighbors.

### thinkBigPicture

This is an example of a case that could be settled outside of court. A **settlement** is when the two parties meet with the help of lawyers to solve their own problem. If a lawsuit is settled, it means that the lawsuit is not decided by a judge or jury. The problem is solved by both sides working together to find a solution.

### thinkNegotiation

Negotiations happen all the time. You negotiate with your family over what chores you will do. You negotiate when you buy certain items to try to get the best price. You even negotiate with your friends about what movie you want to watch.

Although many people think all lawyers do is argue, the very best lawyers are expert negotiators. In this lesson, you will practice the 3-step DIM process of planning a negotiation.

Here is the three stop DIM process:

1. Define Issues and Interests
2. Identify BATNAS
3. Make an Opening Offer

#### 1. Define interests.

It is usually easy to find out the main issue of a lawsuit. It takes deeper thinking to figure out what each party's actual interests are. An **interest** is what's really going on. When you understand the interest, you have more options to solve a problem.

Why do you think the neighbors want to sue the hog farm? Select the most obvious reason.

The neighbors don't like the way the hog farm smells or the insects. These things make their homes very unpleasant.

Why do you think the hog farm wants to have so many pigs on their property? Select the most obvious reason.

The hog farm wants to be able to raise and sell as many hogs as possible to make money.

### Instructor's Note:

Only about 2% of lawsuits ever make it to Court. Most lawsuits are settled outside of a courthouse.

### Braincandy Questions:

(6.1) Poll: Have you ever smelled a pig sty?

(6.2) Poll: Would you be upset if someone built a pig sty by your house?

(6.3) Poll: Which of the neighbors' complaints is the most serious?

(6.4) What is your "gut reaction" to these complaints?

(6.5) What other industries are affected by the hog farms?

### Probing Questions:

- How do you use negotiation in your life?
- Take some time to think about conflicts in current events or in your community. What are the issues on the surface? What are the interests? What is really going on? What are people really upset about?
- Why do you think people want to settle lawsuits?

### Instructor's Note:

Find other opportunities to practice determining issues and interests in a conflict. Current events lend themselves naturally to this process as well as conflicts within literature. What is really going on below the surface? Determining interests is a life-skill when approaching problem solving.

**Braincandy Question:**

(6.6) What is the neighbor's interest in this case?

(6.7) What is the hog farm's interest in this case?

**Instructor's Note:**

If thinkers get stuck determining the different between issues and interests keep asking "why?" After you ask why several times, the interest becomes clearer.

**Instructor's Note:**

The hog farm is owned by a parent company called Smithfield. Smithfield was sold to a multinational company for over \$7 billion in 2013. The plaintiffs argued that the Smithfield company had enough money to responsibly address the neighbors' complaints.

You defined the neighbor's issue above. These people moved to the country, so they probably expected to live near other farms. What do you think they really want? What is their biggest problem? What makes the situation with the hog farms the most unreasonable? What would make the neighbors happy?	The neighbors are worried about the diseases that the bugs might be carrying. They want to feel safe and comfortable in their own homes. They want peace and quiet from the trucks.
What does the hog farm want to happen?	They'll want to find a way for them to make the neighbors happy while continuing to make money raising and selling hogs.

2. Identify BATNA.

BATNA stands for **Best Alternative to a Negotiated Agreement**. In other words, the BATNA is important because it helps you figure out how hard you should try to settle a case. Before you can see BATNA, you need to think about the strengths and weaknesses of the neighbors' case.

Strengths of the Neighbors' case	Weaknesses of the Neighbors' case
<ul style="list-style-type: none"> <li>The waste and bugs that are created by the hog farm are more than should be reasonably expected.</li> <li>Liquids from the trucks are being spread onto the neighbors' yards.</li> </ul> 	<ul style="list-style-type: none"> <li>The neighbors chose to move to the country. It's reasonable to assume that people will be raising farm animals that will smell funny and attract bugs.</li> </ul>
<p>What is the worst-case scenario for the neighbors if they let a judge decide their case? What is the best-case scenario?</p> <p><b>Worst Case: They will lose, and nothing will happen.</b></p> <p><b>Best Case: They will win, and the pig farm will have to make changes.</b></p>	<p>What is the worst-case scenario for the hog farm if they let a judge decide their case? What is the best-case scenario?</p> <p><b>Worst Case: They will lose and have to get rid of the pigs.</b></p> <p><b>Best Case: They will win and not need to make changes.</b></p> 

Who do you think should be trying harder to settle the case on their own?

- The Neighbors
- The Pig Farm

**Probing Questions:**

- There are measures that the farm could implement to more effectively manage the waste. Why do you think the farm didn't implement those measures?
- Do you think a smaller, family-owned farm could afford more effective measures of waste management? Why or why not? Do you think a farm owned by a corporation could afford the measures? Does it matter who owns the farm? Why or why not?
- What responsibilities do you think the neighbors have in the situation? Do you think you would move if you lived near the hog farm? Do you think you would be able to sell your house if you lived by the hog farm? Why or why not?

**Instructor's Note:**

It's important to think about ALL the neighbor's concerns. The neighbors aren't just annoyed by the smell, they're afraid of possible health risks. What could the farm do to ease their fears?

**thinkOffer**

- 1) Make an opening offer. For this case, you are the lawyers representing the hog farm. Use the table below to explain:
- a. How much money will you offer the neighbors? Why did you choose this amount?
  - b. How will you address each of the following complaints?
    - i. The large amounts of manure
    - ii. The insects and other vermin
    - iii. The trucks
  - c. Any other creative ideas you might have to settle the case.

Try to make an offer that will allow the neighbors to protect their interests while making them happy enough to settle the case.

	Offer	Why?
How much money will you give the neighbors?	Thinker responses should vary.	Thinkers need to justify the dollar amount. What expenses would that money cover? What problems would that money solve?
How will you solve the manure problem?	The hog farm could offer to try other ways of waste management that could be more efficient.	This would help reduce the smell. It might also help reduce the amount of liquid spilling on people's property.

**Instructor's Note:**

Sometimes thinkers consider settlements to be anticlimactic. Only about 2% of lawsuits ever make it to Court. It might be helpful to give students a more familiar scenario as an example. Pretend that you and a friend are fighting over a bag of chips. You're both pulling on the bag and chips are starting to fall out onto the floor.

- How could you solve your problem?
- How is a teacher/principal probably going to solve your problem?
- Most likely, an adult will just take the chips away and possibly throw them into the trash. If you and your friend could have found a solution to your

problem, you both could still have chips. But because you let someone else solve your problem, you both lose and no one gets any chips.

When lawyers try to decide if they should advise their clients to settle, they must think about the best- and worst-case scenario. What is the best possible outcome to letting a judge decide? What is the worst possible outcome to letting a judge decide? The party with the most severe worst-case scenario should probably be trying the hardest to settle outside of Court.

In this case, who has the most to lose? It is the neighbors or the hog farm? Why?

**Instructor's Note:**

Companies will offer individuals money to settle outside of Court. A company can choose an amount of money to offer or risk being ordered by a judge to pay a greater amount.

- If you were one of the hog farm's neighbors, how much money would they need to offer you to settle?
- How did you choose that amount?
- What would you use that money for?
- What are solutions that would benefit the farm as well as the neighbors?
- Many of the neighbors are afraid that they might get sick from the manure and insects, what could the farm do to ease their fears?

How will you solve the insect and vermin problem?	The hog farm could offer to pay for exterminators for the neighbors to try to improve the situation with the bugs and vermin.	If you could help the neighbors get rid of the bugs, they might be less worried about diseases.
How will you solve the truck problem?	You could offer to put the trucks on a more limited schedule so that they are not driving at night past the houses.	The neighbors would be happier if they weren't being woken up at night.
Other ideas for settling this case.	Responses will vary. If thinkers can explain their reasoning, their responses are acceptable.	

If you were an attorney for the neighbors, would you accept this offer or let a judge make a ruling? Why?

- Accept the Offer
- Let a Judge Decide

Some thinkers might say it's better to accept the deal because you don't know what the judge will decide, and this might be the best chance at solving all the problems.

**Instructor's Note:**

This case went to trial and the jury ruled in favor of the neighbors. The jury initially rewarded almost \$50 million in damages, but the judge later lowered that amount to be around \$20 million because of a requirement in North Carolina law about damages payments. Each plaintiff ended up receiving around \$325,000. The defense issued a statement saying, "Farmers are not safe from attack even if they fully comply with all federal, state, and local laws and regulations."

**Probing Questions:**

- What do you think of the ruling? Do you agree with the decision? Why or why not?
  - Do you think \$325,000 is a fair amount? Why or why not? How does that compare with the amount you were going to offer in your settlement?
- What do you think about the quote from the defense? Do you think farmers are at risk? Why or why not?

**thinkBigger**

If you buy a house in the country, there is a possibility that your neighbors will own farm animals. Most cities have laws against owning farm animals. However, some cities will allow people to raise chickens in their backyards. The rules about owning chickens are different for each city. If you were going to write a rule for your city about owning chickens, what rule would you write? Consider the following:

- How many chickens can someone own?
- Where can people keep the chickens? What kinds of houses and fences should they own?
- What should people do with chickens that die?
- How will you address insects, noise, and smells?
- Should people ask their neighbor's permission?
- Will people be allowed to slaughter the chickens on their property?
- Can people sell the chicken eggs? Can people sell the chicken meat?
- What happens to people who don't follow the rules?



Thinker responses will vary. Thinkers should try to make a detailed rule that will cover a lot of possible negative situations that might come up with the chickens.

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**Braincandy Questions:**

(6.8) How much money would you offer the neighbors to settle?

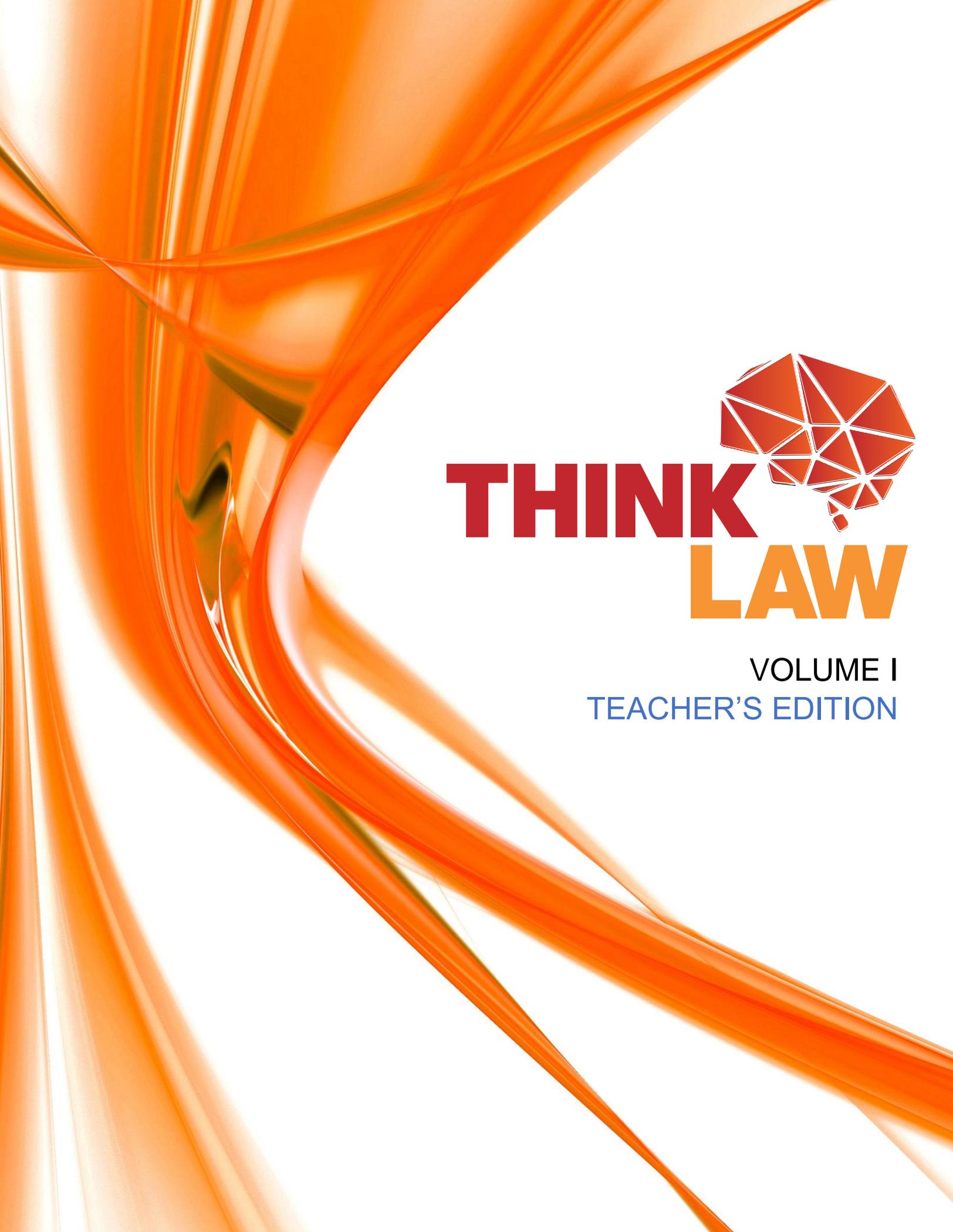
(6.9) How would address the neighbors' complaints?

(6.10) What rule would you write about chickens?

**Instructor's Note:**

The response to this activity will be different depending on the location of your school. If you live in a rural community, have the thinkers pretend that they are writing a rule for a larger city, like New York or Chicago. What rules would you need to implement to make sure that people could successfully raise chickens in the city?

Thinkers might say that they would write a rule saying that people in their city cannot own chickens. That response is okay as long as they can explain their reasoning.



**THINK**  
**LAW**

VOLUME I  
TEACHER'S EDITION

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# Teaching thinkLaw

Teaching critical thinking requires a lot of time, preparation, and skill. This thinkLaw Volume 1 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 through 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 of 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, this thinkLaw 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 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 the most common 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 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 1 and explicitly taught to thinkers in Lesson 5.

**Note: You may want to post the DRAAW+C framework in your classroom so you can regularly reference it throughout the course. Printable posters of DRAAW+C are available in the *Additional Resources* folder on Google Drive.**



# Using the Teacher's Edition

The thinkLaw Volume 1 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, Braincandy questions, and background information in the margins of the Teacher's Edition do not appear in the Student Workbook.

## Using thinkLaw Volume 1 PowerPoint Presentations

thinkLaw Volume 1 PowerPoint presentations are an optional tool that 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 throughout this book. These notes help explain commonly asked questions, provide tips about organizing lessons, and offer several "probably questions" to help thinkers get a deeper understanding of the material. You do not need to ask thinkers every probing question suggested in the Teacher's Edition. Pick and choose the best questions for your class.

## Using the Student Workbook

The thinkLaw Volume 1 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.

## Using Braincandy

thinkLaw has partnered with Braincandy to create an opportunity for you to use pre-made probing questions electronically

with the thinkers in your classroom. All available pre-made Braincandy questions will be indicated in the margins of this Teacher's Edition for each lesson. For more information about how to use Braincandy, contact your thinkLaw representative.

## 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.

## Aligning thinkLaw with Content Standards

Every thinkLaw lesson (excluding the assessments and the introductory lesson) starts with a table showing the lesson's alignment with Common Core English and Language Arts Standards for grades 6-12.

## 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:

1. **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: Doodle Notes and an accompanying PowerPoint presentation on these guidelines are available for download from the *Additional Resources* folder located on the Google Drive.**

### **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, there are a few options:

- Complete the “Guidelines for Civil Conversations” doodle note lesson.
- Complete the thinkLaw student pre-survey.
- Complete the Lesson 1 Diagnostic Writing Assessment.

## **Lesson 0**

### **Introduction to thinkLaw**

#### **About thinkLaw**

It's not surprising that 24 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 lessons, 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 4 important tips for success:

##### **1. It's okay not to 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**

Little 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 students completing these lessons with you. Together, a group of students will have a lot more to offer than you alone.

##### **4. Use the workbook**

The thinkLaw student workbooks are 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 that you receive from your instructor.

Have fun building your critical thinking skills with thinkLaw!

### **Probing Questions:**

- Do you think that the questions raised by legal cases have only one right answer? Why or why not?
- Is the decision reached by the Court automatically correct? Why or why not?
- Can you think of examples of times the Court's rulings have been wrong? What things used to be legal in the United States that are no longer legal today?
- Why do we take time in class to discuss issues and problems that do not have a correct answer? How does that help you to become a stronger thinker?

# The Chair and the Stick (Part 1)

## *Analysis from Multiple Perspectives*

Objective: Thinkers will consider the legal rule for battery and analyze a real-life legal case from multiple perspectives.

### Common Core Content Standards

Grade 6	Grade 7	Grade 8
<p>RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.</p>	<p>RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.</p>	<p>RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.</p>
<p>RI.6.9 Compare and contrast one author's presentation of events with that of another.</p>	<p>RI.7.9 Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.</p>	<p>RI.8.9 Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.</p>
<p>W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>
<p>SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.</p>	<p>SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.</p>	<p>SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.</p>
<p>SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.</p>	<p>SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.</p>	<p>SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.</p>

## Common Core Content Standards

### Grade 9/10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

### Grade 11/12

RI.11-12.6 Determine an author's point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

RI.11-12.8 Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

### 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 from the perspective of both sides of a legal case.
3. Thinkers will apply the rule from The Chair case to determine if a battery occurred in The Bicycles Case.

## PowerPoint Presentation:



### Instructor's Note:

Thinkers will enter their 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.

### Lesson 3

## The Chair and the Stick (Part 1) Analysis from Multiple Perspectives

### thinkStarter

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

Reasons to hit someone	Why should this reason keep you from getting into trouble?
You should be able to hit someone in self-defense.	You should not get in trouble for self-defense because you were protecting yourself.
You should be able to hit someone if they give you permission to hit them. For example, if you are a boxer.	If you are in a boxing match or someone gives you permission to hit them, you aren't doing anything wrong.

### thinkStarter Summary

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:  
Thinkers' rules should focus on when it is not okay to hit someone else.

### Probing Questions:

- Why is important to have a clear, legal rule for battery? What would the world look like if the definition of battery was not clear?
- Do you think that a lawyer just sat down and wrote the rule for battery, or do you think the standards have evolved over time? Explain your thinking.
- Do you think teens consider the battery standards when they get into fights? Why or why not?
- Do you think most teens even know the standards for battery? Do you think that's something important that teenagers should know, or is the more general rule that “You shouldn't hit anyone” enough?

### Braincandy Questions:

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

(3.2) What do you think is the legal definition of battery?

There are four elements that make hitting someone a battery. A battery must meet all four elements.

- |                                |
|--------------------------------|
| 1. Intentional (on purpose)    |
| 2. Contact with another person |
| 3. Harmful or offensive        |
| 4. Cause damages               |

**The Chair** (Garrett v. Daily, 1956, Washington)

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

Do you think Brian is liable for battery? Did Brian's actions meet all 4 requirements?

Element 1: Brian's act was on purpose.	
How will Brian's aunt argue that Brian's act was on purpose?	How will Brian's aunt argue that Brian's act was on purpose?
He pulled out the chair right before she sat down, so that shows he must have known what he was doing.	Brian is only five. He probably meant to move the chair but did not understand that his aunt could get hurt.
What do you think? Why?	
Responses will vary.	
Element 2: Brian's act involved contact with another person	
How will Brian's aunt argue that Brian's act involved contact with another person?	How will Brian's aunt argue that Brian's act involved contact with another person?
Brian's actions caused his aunt to fall and make contact with the floor.	Brian's actions caused his aunt to fall and make contact with the floor.

**Instructor's Note:**

Have thinkers compare their rule to the actual rule for battery. Is there anything they left out of their rule?

The standards for criminal and civil battery are the same.

**Probing Questions:**

- Which element of battery do you think would be the easiest to prove? Which element would be the most difficult to prove? Why?
- What kinds of damages might be caused by a battery?

**Instructor's Note:**

Take an initial poll. Do thinkers believe Brian should be liable for battery? Part of becoming a mature critical thinker is having the

ability to recognize that you will always have a gut reaction to a situation. Mature critical thinkers recognize this gut reaction and then step back to gather and analyze more information.

**Instructor's Note:**

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

**Braincandy Questions:**

(3.3) Poll: Is Brian liable for battery?

(3.4) Poll: Which element of battery do you think will be the most difficult for the aunt to prove?

**Probing Questions:**

- 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 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?

What do you think? Why?	
Responses will vary.	
Element 3: Brian's act was harmful or offensive	
How will Brian's aunt argue that Brian's act was harmful or offensive? His aunt hurt her hip and had to go to the hospital.	How will Brian's aunt argue that Brian's act was harmful or offensive? His aunt hurt her hip and had to go to the hospital. It would be difficult to argue against this element.
What do you think? Why?	
Responses will vary.	
Element 4: Brian's act caused damages	
How will Brian's aunt argue that Brian's act caused damages? His aunt broke her hip and had \$11,000 in medical bills.	How will Brian's aunt argue that Brian's act caused damages? His aunt broke her hip and had \$11,000 in medical bills.
What do you think? Why?	
Responses will vary.	

**thinkBigPicture**

Would you sue your 5-year-old nephew if he did this to you? Why or why not?

Thinker responses will vary.
------------------------------

**Instructor's Note:**

The aunt's attorney will need to prove all four elements of battery in order to win. Brian's attorney will just need to disprove one element to win. If you were Brian's attorney, which element would you try the hardest to disprove? Why?

Why do you think she is suing her own family member?

Thinker responses will vary.  
Thinkers usually feel that there is something else going on. Thinkers may wonder if there is family drama. Thinkers may wonder if the aunt just really needs money.

Do you think Brian is liable for battery?

- Yes
- No

**NEW FACT:** Brian was actually 5 years and 9 months old when this happened. Does that change your mind about whether Brian is responsible? Why or why not?

Usually thinkers do not change their minds based on this fact. You may remind thinkers that Brian was probably at the end of his kindergarten year.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

**NEW FACT:** 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. Does that change your mind about whether Brian is responsible? Why or why not?

Ask thinkers how both sides will argue this fact to support their case. Brian's attorney will say that Brian can't see arthritis and probably doesn't know what it is. The aunt's attorney will say that Brian had to wait longer for his aunt to sit down, so he had a lot of time to change his mind.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

### 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 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.

### Braincandy Questions:

(3.5) New Information: Brian was actually five years and nine months old when this happened. Poll: Is Brian liable for battery?

(3.6) New Information: Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than other adults. Poll: Is Brian liable for battery?

(3.7) What is Brian's strongest evidence?

(3.8) What is the aunt's strongest evidence?

**Instructor's Note:**

This was a civil case. Brian was not in danger or receiving jail time.

**Instructor's Note:**

Thinkers should find that the answer depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. In the actual case, Claire did not sue Juliet and Jacob for battery. She sued for negligence, which basically means that Juliet, Jacob, and their parents violated their duties to make sure their children rode their bicycles safely.

Your teacher will tell you what happened in the real case. What do you think about the decision?  
The Court decided that Brian was liable for the battery, but the final result does not matter. What matters is how the Court thought about the case. 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.

**thinkBigger** (Menagh v. Breitman, 2010, New York)

Juliet was 4 years old when she and her 5-year-old friend Jacob raced their bikes down a sidewalk in New York. Juliet and Jacob's mothers were watching them. Their bikes still had training wheels. The children crashed into Claire, an 87-year-old woman who was walking on the sidewalk. Claire broke her hip. She sued Juliet and Jacob for battery.

Should Juliet and Jacob be liable for battery against Claire? Why or why not?

There are a lot of similarities to the previous case. The age of the children is about the same, and both cases involved a woman with a broken hip. Thinkers answers will depend on whether they think Juliet and Jacob crashed into Claire on purpose.

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 this case in your answer).

Thinker responses will vary. The Court determined that it mattered that Brian intended for his aunt to hit the floor. Do thinkers believe that Juliet and Jacob intended for Claire to hit the ground?

**Braincandy Question:**

(3.9) Poll: Should Juliet and Jacob be liable for a battery against Claire?



**THINK**  
**LAW**

SOCIAL JUSTICE  
TEACHER'S EDITION

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# Dangerous Pop Tarts

## Legal Synthesis and Rulemaking

Objective: Thinkers will assess the origin, application, and impact of zero tolerance policies in school.

### Common Core Content Standards

Grade 6	Grade 7	Grade 8
RI.6.3 Analyze in detail how a key individual, event, or idea is introduced, illustrated, and elaborated in a text (e.g., through examples or anecdotes).	RI.7.3 Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).	RI.8.3 Analyze how a text makes connections among and distinctions between individuals, ideas, or events (e.g., through comparisons, analogies, or categories).
W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.
W.6.8 Gather relevant information from multiple print and digital sources; assess the credibility of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and providing basic bibliographic information for sources.	W.7.8 Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.	W.8.8 Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.
SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.	SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.	SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.
SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.	SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.	SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

## Common Core Content Standards

### Grade 9/10

RI.9-10.3 Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.9-10.8 Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

### Grade 11/12

RI.11-12.3 Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.11-12.8 Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

### Lesson Outline:

1. Thinkers will brainstorm school safety rules and the consequences for breaking those rules.
2. Thinkers will consider the origin, pros, and cons of "Zero Tolerance Policies."
3. Thinkers will analyze two real-life cases that relate to weapons at school and zero tolerance policies. They will consider the impact of the punishment as they relate to the intent of the offender.
4. Thinkers will determine the impact, if any, these two cases should have on zero tolerance policies.
5. Thinkers will learn about Restorative Justice Circles and analyze their potential effectiveness as alternatives to more traditional punishments.

## PowerPoint Presentation:



### Instructor's Note:

Thinkers may feel that consequences should vary based on the severity of the offense and/or the intent of the offender. If the responsibility of the school is to keep all students safe, how does this impact policy? Is it possible for the school to determine intent?

Hindsight is often 20/20 and often intent only becomes clear after an incident occurs. How does this impact their thinking?

### Probing Questions:

- What are all the ways a school is expected to keep students safe? (i.g.: safe from violence, bullying, allergens, exposure to dangers online, etc.)
- Is it possible to create enough rules and policies to cover all possible dangers? Why or why not?
- Are there safety rules you think your school should have that it does not currently have in place? What are they? Why are they necessary? Why do you think your school doesn't have that rule?
- Are there safety rules that you think are ineffective? What are they? Why are they ineffective? What would be a better rule?
- Should safety rules be very specific or broad? Why? Are there problems when rules are too specific? Are there problems when rules are too broad?
- Do you know your school's policy for weapons? Should you? Why or why not?

## Lesson 2

### Dangerous Pop Tarts

#### Legal Synthesis and Rulemaking

#### thinkstarter

Many rules in school are written to make sure students are safe. What are some rules at your school that focus on student safety? What are the consequences for students who break those rules?

Safety Rule	Consequence for Breaking the Rule
No weapons on school grounds	<ul style="list-style-type: none"><li>• Suspension</li><li>• Long-term Suspension</li><li>• Expulsion</li><li>• Criminal Charges</li></ul>
No fighting at school	<ul style="list-style-type: none"><li>• Mediation</li><li>• Detention</li><li>• In-School Suspension</li><li>• Suspension</li></ul>
No latex, peanut butter, etc.	<ul style="list-style-type: none"><li>• Reminder to not bring items to school</li><li>• Put item in backpack or locker to take home.</li></ul>

Sometimes there is only one consequence for breaking a rule, but there are many ways the rule can be broken. One rule that all schools have is that students are not permitted to bring weapons. Usually the consequence of breaking this rule is suspension. Consider some of the situations below. All the situations are weapon related. What consequences do you feel would be appropriate?

Situation	Consequence
A student has a paintball gun in his or her backpack	<ul style="list-style-type: none"><li>• Phone call home</li><li>• Parent pick up paint ball gun</li></ul>
A student has a pocketknife on his or her keychain	<ul style="list-style-type: none"><li>• Office holds pocketknife until the end of the day</li><li>• Student warning to not bring it back</li></ul>

A student draws pictures of guns and other weapons on his or her paper

- Student speaks with principal or counselor
- Student is asked to stop drawing weapons.

#### thinkStarter Summary

When people write rules or laws, they must consider many different possibilities. Lawyers do the same thing using a concept called **legal synthesis**. Legal synthesis is when lawyers look at Constitutions, law, and cases to create legal rules, and use these rules to help them argue.

When it comes to weapons in school, many schools use **zero tolerance** policies. Zero tolerance means that anyone who breaks the rule will receive a harsh punishment, no matter what. Let's look at two cases surrounding school safety and zero tolerance policies.

#### thinkAnalysis: Dangerous Pop Tarts (2016, Maryland)

In 2013, Josh was eating a Pop Tart at school. Josh was a seven-year-old second-grader who had some behavior problems in the past, including disrupting his class. Josh chewed his Pop Tart into the shape of a gun and said, "Look! I made a gun!" He began to aim and point the Pop Tart at his classmates who were at their desks or in the hall and said, "Bang, Bang."

The school district suspended Josh for two days. Josh's family felt this punishment was unfair, but the school maintained that Josh's behavior was disruptive, and the two-day suspension was fair. What arguments could both sides make to support their positions?

Suspension was Appropriate	Suspension was Inappropriate
<ul style="list-style-type: none"><li>• Josh had been in trouble at school recently. The Pop Tart incident wasn't his first time in trouble. Consequences usually get bigger for each offense.</li></ul>	<ul style="list-style-type: none"><li>• There wasn't a real weapon.</li><li>• Josh is only seven. He probably doesn't realize that guns are very dangerous and that weapons in schools are a serious problem.</li></ul>

#### Instructor's Note:

Allow thinkers to share the consequences they've brainstormed for each situation. How would different stakeholders feel about these consequences?

Principals? Parents? Teachers? Students?

#### Braincandy Questions:

(2.1) Identify one safety rule at your school.

(2.2) What consequences do students face for breaking safety rules?

(2.3) What consequence would you give the student who had the paintball gun his or her backpack?

(2.4) What consequence would you give the student who had the pocketknife on his or her key chain?

(2.5) What consequence would you give to the student that drew pictures

of guns or other weapons?

(2.6) Poll: Should Josh have been suspended for the Pop-Tart gun?

#### Probing Questions:

- Are there any other zero tolerance rules? What are they? Should there be more? What offenses should be zero tolerance?
- Is there anything odd about this situation? What is it? Why is it odd?
- How would you feel if you were the parent of a child who was "shot" by Josh's Pop Tart gun? Why?
- How would you feel if you were Josh's parents? Why?
- What else do you wish you knew about the situation? Why?

#### Instructor's Note:

At this point in the lesson, thinkers might place all the blame in the situation on the building principal. If this is the case, ask thinkers to recall what a zero tolerance policy means. Does this leave the administrator with any other options?

## The Ruling:

Josh's family asked his school district and two different courts to review Josh's suspension. However, the district and both courts found that the school's decision to suspend Josh was proper. His parents fought the decision, and the suspension was upheld. They continued their appeal to the court system, where the punishment was again upheld. The school district maintained that Josh had a series of behavior infractions, and the suspension was a culmination of all these incidents. Josh's family requested that the suspension be removed from Josh's record, but this request was also denied. The judge ruled that Josh received due process,

and the punishment was an appropriate response to his escalating behaviors.

- Do you agree with this ruling? Why or why not?
- Can you think of alternative consequences the school could have used with Josh's situation? Why would your solution be better?

## Probing Questions:

- Is there anything odd about Alyssa's situation? What is it? Why is it odd?
- How would you feel if you were Alyssa's parents? Why?
- How would you feel if you were the parent of a child that attended school with Alyssa? Why?
- What else do you wish you knew about the situation? Why?
- Alyssa said she didn't know the knife was in her purse. Is there any way you could prove that she was telling the truth? Why or why not? Should you automatically believe someone in that situation? Why or why not?
- What is the best argument for both sides?

## thinkBigPicture

What impact could this decision have on Josh and his future?

Josh has a suspension related to weapons on his school record. This may cause future teacher or administrators to judge him unfairly.

## Pocket Full of Trouble (2016, Minnesota)

Alyssa was a junior when she brought a small pocketknife to school. She claimed that she used the knife at home for farm chores and had simply forgotten it was in her purse. The purse with the knife was left in her locker and was found by a drug-sniffing dog. Alyssa said that no one, including herself, knew the knife was in the locker. Alyssa's school also had a zero-tolerance policy, and she was expelled for the remaining six weeks of the school year. Under the school policy, if Alyssa had told the officers she was in possession of the knife, she would have not been expelled.

Alyssa's family strongly disagreed with her punishment and decided to take legal action. The school maintained that bringing the knife to school was a violation of the zero-tolerance policy. What arguments could both sides make to support their positions?

Suspension was Appropriate	Suspension was Inappropriate
<ul style="list-style-type: none"><li>• Knives are clearly in violation of school policy.</li><li>• Someone else could have gotten ahold of the knife and caused injury to students/staff.</li><li>• She should have been more careful when putting the knife away.</li></ul>	<ul style="list-style-type: none"><li>• No one, not even Alyssa, knew that the knife was in the purse, so it was not a threat.</li><li>• It was a simple mistake.</li><li>• It's a tool from her farm.</li><li>• Alyssa could not have told the officers she had the knife because she didn't know it was there.</li></ul>

**thinkBigPicture**

What impact could this decision have on Alyssa and her future?

Alyssa was not allowed to finish her junior year of high school. That could have serious implications for her GPA and college plans. If she has a weapons-related offense on her record, she might have fewer opportunities when applying to colleges.

**thinkApplication**

Thinking back to the concept of **legal synthesis**. How could these two cases be used to shape a district's no tolerance policy when it relates to weapons at school?

Thinkers might suggest that intent should be considered. Thinkers might also say that toys (or food) that look like weapons shouldn't be treated as real weapons. Thinkers might say that zero-tolerance policies should remain as zero-tolerance. Just because no one was injured doesn't mean that possessing the item is okay.

What rule would you write regarding weapons in schools?

Thinkers might add a component about the type of weapon or the intent of the student. They might give administrators the ability to change the suspension if the incident was an accident.

**The Ruling:**

Alyssa's case went all the way to the Minnesota State Supreme Court. Her hearing focused on the words "intent" and "endanger." The court ruled in favor of Alyssa, saying that the knife did not pose a real danger to the student body as no one, including Alyssa, was aware that the knife was in the locker. Alyssa had graduated by the time the case was heard but continued in order to have an impact on school discipline policies. Alyssa had a lot of local support. Her punishment received a lot of backlash from her community. There were many online websites created to show support for her.

- Do you agree with the court's decision? Why or why not?

- How would you have handled this situation if you were the judge?

**Braincandy Questions:**

- (2.7) What are reasons Josh's suspension was appropriate?
- (2.8) What are reasons Josh's suspension was not appropriate?
- (2.9) What impact could this decision have on Josh's future?
- (2.10) Poll: Should Alyssa have been suspended?
- (2.11) What are reasons Alyssa's suspension was appropriate?
- (2.12) What are reasons Alyssa's suspension was not appropriate?
- (2.13) What impact could this decision have on Alyssa's future?

**Probing Questions:**

- What are the takeaways from both cases? How could you use those to rewrite policy?
- Were there similarities in the cases? What were they? Were there differences in the cases? What were they?

### Instructor's Note:

- What should be taken into consideration in a situation where a student brings some sort of weapon to school?
- What rule would you write?  
What possible loopholes or problems might exist with your rule?
- Think back to the thinkStarter, is it possible to address every situation? How can you write your rule in a way that is firm but has flexibility?

### Braincandy Questions:

(2.14) What policy would you create when it comes to weapons in school?

(2.15) Poll: Should restorative justice circles be used in schools?

### Restorative Questions:

- What are benefits to this sort of approach? What are problems with this type of approach?
- If you were in trouble, would you prefer this type of approach? Why or why not? If someone had wronged you, would you be willing to participate in a circle?
- Are restorative justice circles a realistic alternative to traditional methods of punishment? Is it appropriate for other students to have a say in the discipline/consequences of another student? Why or why not?
- In the real world, will people have this kind of opportunity to "talk it out"? Should that be taken into consideration? Why or why not?
- In a school setting, who should be invited to participate in a circle?
- What would happen if the offender disagreed with the consequence?
- What accountability should be in place to ensure the offender follows the directions of the circle?

### thinkBigger

Now that we've examined zero tolerance policies and the impact, they have on student consequences, let's look at another way some schools are handling student misbehavior.

Restorative Justice Circles began in Native American communities as meetings that were held within the community. In the 1980's, the First Nations People of the Yukon began to use them formally within their justice system. The process is now used all over the world for both juvenile and adult offenders in a wide variety of offenses. Many schools have also adopted Restorative Justice within their buildings.

Restorative Justice Circles involve a victim, offender, and other members of the community. The participants gather together to talk through the situation. Everyone takes a turn talking. Members cannot speak unless they are holding the "talking piece." The group decides together what the resolution will be. Will the offender be punished? What does the offender need to do to make the situation right? These are the tough questions the circles are designed to address. They are designed to build relationships and strengthen the community.

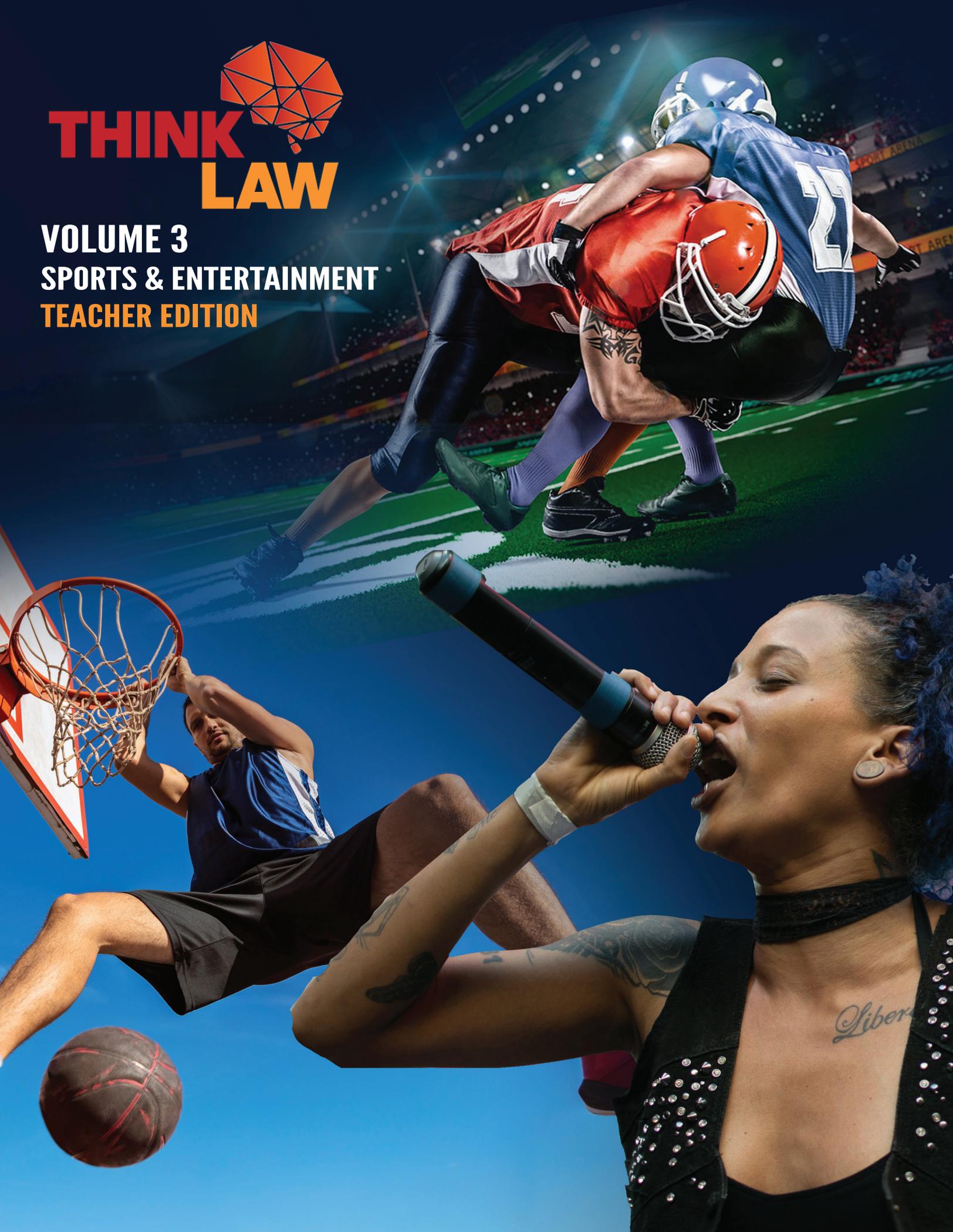
Should schools use Restorative Justice Circles instead of Zero Tolerance policies when it comes to serious problems like bringing a weapon to school? Why or why not?

Thinkers might say that they do not think restorative justice circles would be effective because people could just go to the circle and lie about being sorry for what they did. Thinkers might also say that the circles would be effective because they give students an opportunity to learn and grow as a person. A lot of problems in school are caused by students not stopping to think about the consequences of what they are doing and other people's feelings. If the incident was a mistake, the situation could be resolved without a lengthy punishment.



**THINK**  
**LAW**

**VOLUME 3**  
**SPORTS & ENTERTAINMENT**  
**TEACHER EDITION**



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# That Looks Alike

## Making and Evaluating Tough Decisions

Objective: Thinkers will consider two famous images to determine the outcome of a high-profile lawsuit.

### Common Core Content Standards

Grade 6	Grade 7	Grade 8
<p>RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.</p>	<p>RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.</p>	<p>RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.</p>
<p>RI.6.9 Compare and contrast one author's presentation of events with that of another.</p>	<p>RI.7.9 Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.</p>	<p>RI.8.9 Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.</p>
<p>W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>
<p>SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.</p>	<p>SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.</p>	<p>SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.</p>
<p>SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.</p>	<p>SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.</p>	<p>SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.</p>

## Common Core Content Standards

### Grade 9/10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

### Grade 11/12

RI.11-12.6 Determine an author's point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

RI.11-12.8 Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

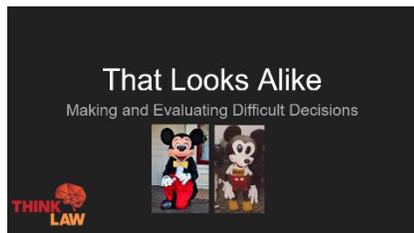
SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

### Lesson Outline:

1. Thinkers will consider who has permission to wear costumes of licensed characters for children's parties.
2. Thinkers will read about a photographer's lawsuit against Nike and compare and contrast the two Jumpman images to determine if Nike should pay the photographer.
3. Thinkers will organize their thinking using the DRAAW+C framework to explain who should win the Jumpman lawsuit.
4. Thinkers will extend their thinking to consider a lawsuit about a tattoo and its use in a major film franchise.

# Lesson 23: That Looks Alike

## Making and Evaluating Difficult Decisions



### Instructor's Note:

Companies will pursue legal action against businesses that provide licensed costumed characters without permission for children's parties.

There have been several lawsuits filed by Disney over party companies that provide *Frozen*, *Star Wars*, and more traditional characters for children's parties, trade shows, and other events. Disney even has a special e-mail address where people can send tips about copyright infringement. [tips@disneyantipiracy.com](mailto:tips@disneyantipiracy.com)

### Lesson 23

## That Looks Alike

### Making and Evaluating Tough Decisions

#### thinkStarter

Little kids love birthday parties. Sometimes at children's parties, parents hire a character to make an appearance. A princess or superhero might surprise children at a party and take pictures with the party goers. Most of the time the characters parents hire for parties are just someone the family knows, like a teenager. So, for example, a family might pay their teenage neighbor to come to a birthday party in a Spiderman costume.

Do you think you could create a business where you charge parents to show up at parties dressed like characters from movies? List arguments for both sides.

The Business Would Be Okay	The Business Would NOT be Okay
<ul style="list-style-type: none"> <li>- It's just something that you're doing for kids that you know, and it makes the kids really happy.</li> <li>- You're not making a lot of money.</li> </ul>	<ul style="list-style-type: none"> <li>- Those characters are licensed, and you don't own the right to them. You can't make money off of characters that you don't own without permission.</li> </ul>

#### thinkStarter Summary

Specific princesses and superheroes are licensed by companies. This means you would need permission to use the characters in a way that is making money. But what if you change the image just a little?

#### Slam Dunk

(Rentmeester v. Nike, 2015, Oregon)

In 1984, photographer Jacobus Rentmeester did a photoshoot with basketball star Michael Jordan for LIFE Magazine. Jacobus took a picture of Jordan in his Olympic warm-ups. In the photo Jordan is jumping up to make a slam-dunk. Jordan's legs are spread. His arm is reaching up and holding a basketball. This was not the normal way Jordan jumped when making a slam dunk. The jump was actually inspired by a ballet technique called a "grande jete." Using this technique to pose was Jacobus's idea.

Nike later recreated the same shot of Michael Jordan. In the photo, Jordan is jumping up to make a slam-dunk. Nike actually even paid Jacobus \$150 for a slide of the photo. Jordan's legs are spread. His arm is reaching up and holding a basketball. The primary

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### thinkStarter Probing Questions:

- Why do you think companies don't want businesses to use their characters without permission? Do you think it's a big deal? Why or why not?
- What if a business was using a children's character without permission at an event that was questionable? Like a gun show or a party with alcohol? Would that change your mind? Why or why not? How might a child react to seeing the character in a questionable situation?
- How is this issue similar to the cases we analyzed regarding the right of publicity? Should companies be able to control the business use of their characters even though they aren't real people? Why or why not?

difference in the photos is that in the Nike photo, Jordan is wearing a Bulls uniform and the Chicago skyline can be seen in the background.

The Nike photo later served as the inspiration for the famous logo used on Jordan products such as shoes, hats, jackets, pants, shorts, and socks. In the icon, Jordan is jumping up to make a slam-dunk. Jordan's legs are spread. His arm is reaching up and holding a basketball.



In 1985, Jacobus was paid \$15,000 by Nike for permission to use the Jumpman image on billboards and posters for 2 years.

In 1987, Nike modified the logo. They no longer paid Jacobus money nor asked his permission for the logo to be used.

The Jordan brand continued to grow. In 2014, the Jordan brand made \$3.2 billion in sales.

Jacobus sued Nike in 2015, saying they created the logo from his photograph and owed him money. Jacobus's image is on the left, and the Nike image is on the right.

Compare the two images

Similarities	Differences
<ul style="list-style-type: none"> <li>- Both figures are jumping.</li> <li>- Both figures are holding a basketball with the same arm/hand.</li> <li>- The images are both solid black.</li> <li>- Both figures have bald heads.</li> </ul>	<ul style="list-style-type: none"> <li>- The legs are different. In one image they're bent.</li> <li>- The arms are different. In the Nike image the arms are very straight, but in the other image, the arms are bent.</li> </ul>

Do you think they are similar enough for Jacobus to claim that Nike stole his image? Why or why not?

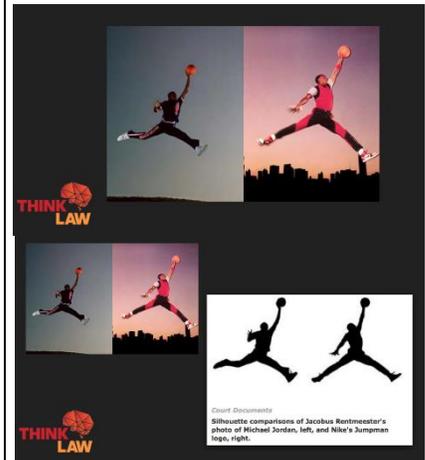
Some thinkers might feel that the images are very close and that the ballet pose had been Jacobus's idea rather than the natural way Michael Jordan dunks.

To win this case, Jacobus would have to prove that his image was stolen. Copyrights protect just the actual work and not the ideas behind them. So proving that Nike stole his idea would not be enough. He would have to prove the image from his photograph was used without permission. Look at the images again.

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### Instructor's Note:

The lesson 23 PowerPoint presentation contains a slide with a side-by-side comparison of the photos and the logos. Have thinkers analyze the photographs before the logos.



### Instructor's Note:

Have thinkers vote. Did Nike steal Jacobus's image? Yes or No? Allow thinkers from each side to share their rationales.

### Probing Questions:

- Do you think Nike should pay Jacobus more money? Do you think the \$15,000 was enough? Why or why not?
- We've talked about "transforming" a piece of art into something else? Do you think the Jumpman logo is a transformation from the photograph? Why or why not?
- Do you think that Jacobus would be as upset about the situation if the Jordan brand was not as financially successful? Why or why not?

### Braincandy Questions:

(23.1) Poll: Should anyone be allowed to dress up like a licensed character for a party or other event?

(23.2) How are the two Jumpman logos similar?

(23.3) How are the two Jumpman logos different?

**Instructor's Note:**

The Court ruled in 2018 that the photographer's picture was not substantially similar to Nike's Jumpman logo.

Jacobus was told that his 1984 photograph of Michael Jordan displays a different setting, alternative lighting and other elements that makes it different from it from Nike's creation.

**Instructor's Note:**

Have thinkers vote. Should Warner Brothers need Victor's permission to use the tattoo in the film? Allow thinkers from each side to share their rationales.

Should Jacobus win this lawsuit? Use the DRAAW + C framework in your response.

D- Jacobus should not win his lawsuit.

R- The rule is that the image must be transformed. It can't be the same as the original. It needs to have noticeable differences.

A- Jacobus will argue that the concept of the image is the same and that the two images have a lot of his similarities. The original pose was his idea.

A- Nike will argue that the icon has changed over time. The current logo is different from the original photo that was taken in 1984 by Jacobus.

**Who Owns a Tattoo?**

(Whitmill v. Warner Brothers, 2011, Missouri)

Missouri tattoo artist Victor Whitmill designed a tattoo. That tattoo was placed on boxer Mike Tyson's face. Mike Tyson had retired from fighting and decided to appear in The Hangover movie franchise. In the second movie, actor Ed Helm's character woke up with the same face tattoo as Mike Tyson. The movie was a comedy, but Victor wasn't laughing.

Victor claimed that he designed the tattoo. Victor also had the design copyrighted. He sued Warner Brothers for not getting his permission to use the design in the film.

What arguments will both sides present?

Victor's Arguments	Warner Brothers' Arguments
<ul style="list-style-type: none"> <li>- Victor created an original design that he copyrighted.</li> <li>- He owns the image.</li> <li>- The image in the movie was not just included on Mike's face; the movie put the same image on a different character's face.</li> </ul>	<ul style="list-style-type: none"> <li>- The tattoo is on Mike Tyson's face, and Mike is in the movie. If Mike is in the movie, they should not have to get special permission to use the image of the tattoo.</li> </ul>

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**Probing Questions:**

- Do you agree with the Court's decision in the Nike case? Why or why not?
- Do you think Nike would sue you if you made a similar jumping logo? Why or why not?
- What do you think is odd about the tattoo case?
- Would your opinion about the tattoo being featured in the movie be different if Mike Tyson was not in the movie? Why or why not?
- Do you think tattoos should be copyrighted? Why or why not? Who should own the copyright? Should Victor own the copyright? Should Mike Tyson own the copyright? Explain your reasoning.

Should Victor win this lawsuit? Use the DRAAW + C framework in your response.

D- Victor should win his lawsuit.

R- The rule in this case is about copyright. Victor created the image and owned the copyright, so the studio would need his permission to use the design.

A- Victor will argue that he owns the design and that the movie studio cannot put the image on a character's face without his permission.

A- The movie studio will argue that the tattoo is permanently featured on Mike Tyson's face, and Mike Tyson is in the movie. The character who gets the tattoo in the movie is copying Tyson.

#### thinkBigger

Victor Whitmill designed Mike Tyson's face tattoo and copyrighted the design. If you wanted to get the same tattoo on your face, do you think you would need Victor's permission to get the same tattoo as Mike Tyson? Why or why not?

Responses will vary. Some thinkers may feel that Victor sued the movie company because they were using his design in a movie that would make a lot of money. He may not care about an individual getting the tattoo.

Does this seem reasonable? Why or why not?

Thinkers may argue that it would be unreasonable to have to get permission because people get tattoos of licensed characters all of the time without permission from the companies that own the characters.

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#### Instructor's Note:

The lesson 23 PowerPoint presentation contains a slide with a side-by-side comparison of Tyson's tattoo and the tattoo in the movie.



#### Braincandy Questions:

(23.4) Poll: Do you think the tattoo should be allowed in the movie?

(23.5) In the tattoo case, what evidence do you think is the strongest?

#### Instructor's Note:

Warner Brothers settled with Victor for an undisclosed amount. The tattoo was used in the movie.

#### Probing Questions:

- If you were a lawyer for Warner Brothers, how much money would you offer Victor to use the tattoo? If you were Victor, how much money would Warner Brothers need to offer you to use your tattoo design? Why?
- Do you think someone should be able to get a trademarked image as a tattoo? The McDonald's arches? The Nike Swoosh? Why or why not? Would there be any way to regulate these types of tattoos? Why or why not?



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# Who Owns the Moon?

## *Analysis from Multiple Perspectives*

Objective: Thinkers will analyze additional considerations that should be made when determining the validity of an agreement.

### Common Core Content Standards

Grade 6	Grade 7	Grade 8
<p>RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.</p>	<p>RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.</p>	<p>RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.</p>
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<p>W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>	<p>W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.</p>
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## Common Core Content Standards

### Grade 9/10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

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### Grade 11/12

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W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

### Lesson Outline:

1. Thinkers will begin by writing what they would include in the U.N.'s Outer Space Treaty.
2. Thinkers will analyze a sting operation organized by NASA to retrieve a paperweight that contains a moon rock.
3. Thinkers will determine if a woman's 4<sup>th</sup> Amendment rights were violated in the sting operation.
4. Thinkers will examine another lawsuit and determine if regular citizens should be permitted to own lunar material.

## PowerPoint:



### Instructor's Note:

A brief overview of the Outer Space Treaty is located on a PowerPoint slide.



Allow thinkers to share the rules they would create regarding space. Be sure they explain their reasoning.

Share the points from the Space Treaty. Are there any other rules that should be added?

### Probing Questions:

- If you lived in 1967, what would be your biggest fears about space exploration? Why? What are your biggest fears about space exploration today?
- Why do you think the U.N. banned countries from claiming the moon or planets? What would the universe look like if countries were allowed to claim land in space?
- How do you think this treaty will impact future colonies on Mars?
- What is your gut reaction? Do you think individuals should be allowed to own moon dust or rocks? Why or why not?

## Lesson 17

### Who Owns the Moon?

*Analysis from Multiple Perspectives*

#### thinkStarter

In the 1960s, the world was racing into space. Countries were competing to be the first to land on the moon. This raised new questions. Should the country that landed on the moon first be able to claim the moon? What about other planets or objects in space? Could they be claimed?

The United Nations decided that it needed to create some guidelines. On January 27, 1967, the United Nations adopted the Outer Space Treaty.

*If you were a member of the United Nations in 1967, what rule would you write regarding space?*

In short, no one can place weapons of mass destruction in space. It limited the use of the Moon and other places in space to only peaceful purposes. No one can establish military bases in space. No one can claim a space resource. The exploration of outer space is something that should be done for the benefit of all countries.

Why would you write this rule?

Thinkers may say that they created their rule to keep space safe and open for everyone.

#### thinkStarter Summary

The United States signed the U.N.'s Outer Space Treaty which decided ownership of the entire moon, but what about little tiny specks of moon dust? Can anyone own those?

**Over the Moon** (Davis v. United States, New York, 2017)

Joann and Robert Davis both worked for North American Rockwell. North American Rockwell had a contract with NASA, and Robert was the manager of the Apollo project. The Apollo project was the project that first landed a man on the moon.

During his time working on the Apollo project Neil Armstrong, the first man to walk on the moon, gave Robert two paperweights.

The first paperweight contained a piece of moon rock the size of a grain of rice, and the second paperweight contained a small fragment of the Apollo 11 heat shield.

Robert died in 1986, and Joann became the owner of the paperweights.

Why do you think Neil Armstrong gave Robert the paperweights?

Neil probably gave the paperweight to Robert as a gift to say "thank you" for all of Robert's hard work.

If you were Robert, would you accept the two paperweights? Why or why not?

If I were Robert, I would accept the gifts. The Apollo mission was an important part of history. If I worked on the mission, I would want some sort of memento to remember.

If you were Joann would you sell the two paperweights? Why or why not?

If I were Joann, I would hate to sell the paperweights because they were so precious to Robert. I would be willing to sell them if I needed the money to help with my son's cancer treatments.

The Davis family faced some major hardships in 2011. Joann's youngest daughter died, and Joann began raising her grandchildren. Joann's son was diagnosed with cancer and required over 20 surgeries.

The family needed money. Joann thought the paperweights might be valuable and considered selling them.

**Instructor's Note:**

The Apollo program ran from 1963-1972. Six of their missions landed humans on the moon.

**Probing Questions:**

- What responsibilities do you think the manager of the Apollo project had? Do you think it was an easy job? Why or why not?
- If you were Neil Armstrong, would you bring back moon rocks and dust? Why or why not? Would you give the lunar materials to friends and family? Why or why not?
- Do you think Joann had a right to claim the paperweights as her personal property? Why or why not?

**Instructor's Note:**

The PowerPoint presentation contains a slide with a picture of the moon rock paperweight. Do you think this paperweight is valuable? What do you think about the size of the moon rock? L=



**Braincandy Questions:**

- (17.1) In 1967, what would be your biggest fears about space exploration?
- (17.2) What rules would you write for the Outer Space Treaty?
- (17.3) Why do you think Neil Armstrong gave Robert the paperweights?
- (17.4) Poll: If you were Robert, would you accept the paperweights?

### Probing Questions:

- Do you think Neil Armstrong knew that all pieces of the moon automatically belong to the government?
- Do you think Robert knew when he accepted the gift?
- How would this story be different if NASA had told Joann from the beginning that she could not own a moon rock?
- Why do you think the sting operation took place at a Denny's? Why do you think the agents didn't just ask Joann to come to NASA or a police station?

Joann wasn't sure where she would even sell the paperweights, so she e-mailed NASA to see if anyone could help her.

If you worked for NASA, what questions would you have for Joann?

How do you know the moon rock is real?  
How did you get the moon rock?  
Can you prove that Neil Armstrong gave the rock to your husband?

Joann's e-mail was turned over to a special agent and criminal investigator named Norman Conley. Norman had someone from his office call Joann pretending to be a NASA employee named "Jeff."

Jeff called Joann 7 times. Jeff told Joann that he would help her sell the paperweights. Joann told Jeff she was worried that the paperweights would be confiscated by NASA. She didn't know how to prove that the paperweights were a gift to her husband from Neil Armstrong. Joann told Jeff that she didn't want to do anything illegal. At no point, did anyone from NASA tell Joann that all lunar property belongs to the U.S. government and that her possession of the paperweights was illegal.

What do you think Norman was thinking at this point in the investigation?

He was probably concerned with getting the moon rock back and holding Joann accountable for illegally owning the rock.

What do you think Joann was thinking at this point in the investigation?

Joann was probably hopeful that NASA would help her sell the moon rock so she could help her son with his medical expenses.

Norman used this phone calls to obtain a warrant to search Joann and take away the moon rock paperweight.

Norman had "Jeff" set a time to meet Joanne at a Denny's restaurant. Jeff told Joann that they were meeting to finalize the sale of the paperweight. The meeting was actually a government sting operation to take the moon rock away from Joann.

### Braincandy Questions:

- (17.5) What questions do you think the NASA agents asked Joanne?  
(17.6) Poll: Should Joanne win her lawsuit?  
(17.7) Poll: Should average citizens be able to own a piece of the moon?

At the time of the meeting, Joann was 74 years old. Joann is just 4'11" tall.

Pretend you were Norman. Write out your plan for the sting operation.

Thinker responses will vary.

- How many officers do you think that you will need?
- Do you think Joann will refuse to give up the moon rock? Why or why not?
- Do you think the officers need to be armed?

Listen to what happened during the sting operation.

What is your "gut reaction" to what happened to Joann?

Thinkers will probably feel that the sting operation was probably excessive for an unarmed, 74-year-old woman.

Joann filed a lawsuit against Norman and the United States government. Joann said her 4<sup>th</sup> Amendment rights were violated.

#### 4<sup>th</sup> Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Should Joann win her lawsuit?

- Yes
- No

### Instructor's Note:

There were 3 armed federal agents and 3 officers from the local sheriff's department. An officer grabbed Joann's hand and took the moon rock. The officers grabbed Joann's 70-year-old-husband by the back of the neck. Joanne was pulled from the booth and taken to the parking lot. The officers kept Joann and her husband in the parking lot for questioning for 2 hours. Joanne told the officers she needed to use the restroom. They would not let her go, and she peed in her pants. They would not let her change her clothes or clean up. The officers had Joann's purse and car keys. An officer stood behind her and pushed her forward every time she

took a step back or shifted her weight. After almost 2 hours, Joann and her husband were told they were free to go. NASA kept the paperweight.

### Probing Questions:

- What do you consider to be a reasonable search and seizure? What arguments can be made that Joann's search and seizure was reasonable? What arguments can be made that Joann's search and seizure was unreasonable?
- How would you define the word "reasonable?"

**Instructor's Note:**

The Court sided with Joann, saying that the agents detained her for too long and in a degrading matter.

NASA has the moon rock. They determined that it was a real moon rock.

**Instructor's Note:**

The Court has yet to rule on Laura Ann's case as of the printing of this edition.

**Instructor's Note:**

When President Obama was in office, he signed a degree that said astronauts could keep memorabilia from their trips. But astronauts are still not allowed to keep pieces of the moon. If you were president, would you declare that astronauts could keep moon souvenirs? Why or why not?

Why or why not? Use the DRAAW+C framework in your response.

D- Joann should win her lawsuit.

R- There are two rules to consider. Joann was not allowed to own the moon rock, but she also has 4<sup>th</sup> Amendment protection against unreasonable search and seizure.

A- Joann will argue that the NASA agents never told her that owning a moon rock is against the law and never gave her an opportunity to give them the rock.

A- Norman will say that Joann was breaking the law, so the sting was justified.

**thinkBigger** (Cicco v. NASA, Kansas, 2018)

Laura Ann was 10-years-old when he mother gave her a small vial of gray dust. The vial came with a note written on the back of one her father's business cards. The note read, "To Laura Ann Murry – Best of Luck—Neil Armstrong, Apollo 11." Laura Ann's father served with Neil Armstrong in World War II, and the men were friends.

As an adult, Laura Ann had a handwriting expert examine the note from Neil Armstrong and believes the note is real.

Laura Ann decided to sue NASA before they tried to take her moon dust away. Laura Ann claims the moon dust was a gift and should belong to her.

Should Laura Anne win her lawsuit? Should individuals be allowed to own pieces of the moon? Why or why not?

Thinker might feel as though it's not a big deal to own a moon rock or dust. People can't just go to the moon to collect a sample, so there are probably only a few families who even own moon rocks or dust that were given to them as gifts.

**Probing Questions:**

- What would you do you if you were Laura Anne?
- Why do you think NASA is so intense about not letting people own lunar material?
- Why do you think Neil Armstrong gave away so much lunar material? Do you think he knew it was illegal?
- If people give you something that is illegal, are you allowed to keep it just because it's a gift? Can you get in trouble for keeping something another person stole?