

Educating for Democracy TIP Seminar 2022:

The 14th Amendment And Persons With Disabilities, What Students Should Know

by

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Abstract

Students have been bombarded in many ways with many instructional interruptions both in school and at home. The Covid-19 virus and its many variants have changed how educators and students navigate a learning environment. Contract tracing became a mandate for our students and school staff. Keeping students engaged and motivated was a top priority. It was extremely important to create an authentic unit that could affect all of my students in a positive way. The unit begins with a discussion about The Emancipation Proclamation and the newly minted national holiday, Juneteenth. Students explore the significance and impact of the document written and signed by Abraham Lincoln in 1863. The Thirteenth Amendment then banned slavery throughout the land in 1865, and the 14th Amendment promised equal rights for formerly enslaved persons and was ratified in 1868. The unit continues by looking at a copy of the document and the interpretation of the Constitution. Specifically, we'll start our unit with the 14th amendment, section 1. We will then consider how the 14th Amendment's goals have today been extended by congressional legislation to provide equal educational opportunities for students with disabilities.

Keywords: Disabilities; Fourteenth Amendment; equal protection; Individuals with Disabilities Education Act; Americans with Disabilities Act; IEP; LRE

Rationale

2022 has proven to be an interesting year for my students and me. Class size has been reduced to seventeen to twenty students. Normally and contractually the number of students in a fourth to twelfth-grade classroom consists of thirty to thirty-three students. The reduction was mainly because of the pandemic and the need to provide the spacing of three to six feet from one student to the next. This year has also been a 100 % return to face-to-face instruction for my fifth-grade students. This group of students spent four

months being taught virtually in third grade. In fourth grade, it was a mixture of virtual and hybrid learning for current fifth-grade students.

My fifth-grade students needed a re-entry period. Jumping into the curriculum on the first day, August 31st proved to be a very tedious process. Some of my students had to attend daycare facilities while their parents worked and then some of my students were sent to relatives just so they could have wi-fi service when they were in third and fourth grade. The re-entry period basically included teaching them how to be students again in a face-to-face setting and addressing their unique needs.

As their general education teacher, it was important to get to know my students quickly. Knowing my students included having access to their easy IEPs (Individualized Education Program). As I understood the IEP for seventeen of my seventeen students it was explained to me that being in Special Education was about receiving services that had been outlined in a student's IEP. Special Education itself was not a space to go to but services needed to meet my students' needs.

In these circumstances, it seems timely to prepare and teach a unit on the rights of persons with disabilities, especially students in public schools. My students are protected under the Education for All Handicapped Children Act of 1975 which is a predecessor of I.D.E.A, the Individuals with Disability Education Act of 1997. I.D.E.A is a civil rights act, advances the goals of the Fourteenth Amendment. The act ensures equal protection under the law in the education of disabled persons. This unit helps students understand the origins of those equal protection goals and their rights under current law.

Background

This particular law implementing the 14th amendment, the I.D.E.A., helps to protect children from being segregated and reduced to receiving babysitting programs that provide little to no educational benefit for children with special needs. In 2022 general education classrooms may have as many as half of their student body labeled with a disability documented in an I.E.P. Special Education specialists make the I.E.P accessible to general education teachers by supplying them with an "EasyIEP" for every child that has one.

The 2021-2022 school year welcomed a brand-new fifth-grade class in a strict pandemic era. Protocols were in place for vaccinated and unvaccinated students and staff. Students entered this school year after many months of virtual and hybrid models in place during tier third and fourth-grade schooling at home. Many students suffered some type of learning loss during that time. Face-to-face instruction definitely provides benefits that many students did not receive.

Book bannings, government reeling in hypocrisy, and other disturbing headlines cover daily the media outlets. My fifth-graders have witnessed democracy at its best and worse. They have seen peaceful protests of Black Lives Matter demonstrators march near their homes and the schools they attend. All students voice their concerns first thing in the morning during Community Meeting time. Community Meeting Time is set aside every day from 9:05-9:25. At this time we address Social Emotional Learning or SEL concerns. Students are encouraged to participate.

Some students have commented and discussed the depiction of rogue police officers shooting unarmed African American boys and men in the back without provocation. Many students have expressed concerns about traveling back & forth from school in fear. The twelve-year-old boy who was recently shot in the back in South Philadelphia is actually a first cousin to one of my students. The next day he was very sad and was sent to the counselor to help him relax.

These wonderful students of mine live in the Port Richmond section of Philadelphia, Pennsylvania. They are culturally, economically, and intellectually diverse. These three areas are important to mention because some of my students entering 5th grade are labeled as intellectually disabled. Some of my students have been diagnosed as being intellectually disabled. I was introduced to this terminology about ten years ago. Much of my concerns go beyond the school. I wonder if my students want to continue their education past a K-12 setting? Do they desire to work and get a job? Do my students have the skills necessary to live on their own?

Content Objectives

As I understand the terminology, an intellectually disabled individual is someone who has certain limitations in mental functioning and in skills such as communication. Having this disability can make it harder to learn new things (Reynolds, T., Zupanick, C.E., & Dombeck, M., 2013). My unit's main goal is to investigate the following questions: Does our government support freedom and democracy for all, including individuals with intellectual disabilities? Is a K-12 setting enough preparation for a disabled child? Do the disability provisions of the Social Security Act of 1935 and its later amendments help secure students' productive place in society once they've turned twenty-one? One of my goals is to familiarize students with the main lessons of American legal protections for the disabled, including not only those concerned with education but also the broader guarantees of the Americans with Disability Act of 1990 and other major pieces of disability rights legislation.

Students will start learning about modern disability laws by analyzing the original Social Security Act of 1935. Its most famous stipulation was to provide a safety net for the elderly and disadvantaged by paying a lifetime payroll tax contribution, but it can also be seen as the beginning of efforts to extend government aid to the disabled, including

the equal protection promised by the 14th Amendment. Consequently, this unit first attempts to outline the language and provisions of the 14th Amendment and their implications for my young students. At the end of the unit, students are expected to understand and describe equal protection under the law.

It will be important to point out to students how history and specific Supreme Court decisions are interwoven. Conflicts in the courts reflect changes in our basic values. In the past fifty years, there have been many gains in the area of disability rights.

Discrimination against people, wrongly justified by claims that they have inferior physical or mental qualities, has a long history in the United States, and elsewhere. Through much of our history the most severe discrimination was racial discrimination, defended through false claims of physical and intellectual inferiority. White Americans elaborated theories of racial hierarchy to uphold enslaving and exploiting persons of African descent. Abraham Lincoln began the shift from national governmental support for enslavement and racial discrimination when he issued the Emancipation Proclamation, abolishing slavery in the states in rebellion, as an executive order to aid the Union war effort in 1863. The Proclamation was not put into effect in Texas until June 19th, 1865, after Union military victories. That date is now celebrated as Juneteenth, a public holiday in many states.

Even more momentously in 1865, the 13th Amendment forever banned slavery throughout the United States. Racial discrimination persisted, however, and in 1868, the nation ratified the 14th Amendment to give the Congress and also the President and the federal courts new powers to combat it. This amendment, along with other constitutional provisions, has since been used as a basis for legislative, executive, and judicial actions to combat not just racial discrimination but many other kinds of discrimination, including discrimination on the basis of perceived physical and intellectual disabilities.

What the document says :

Amendment XIV

Section 1.

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

This section of the document specifically states that individual states could not deprive any person of, “life”, “liberty”, or “property” without due process of the law.” The language also stated that no one within a state’s jurisdiction could be denied equal protection under the law. Students will have an opportunity to examine their own copy.

Beginning with the disability provisions of the Social Security Act, Congress has passed a number of laws that have protected the rights of the disabled. These have been based on a variety of constitutional powers, not simply the powers given Congress by Section 5 of the 14th Amendment; but all can be seen as contributing to the Amendment’s goals of equal citizenship for all. The Social Security Act was signed into law on August 14, 1935. President Roosevelt originally set aside money to give to older citizens after the age of sixty-five. The program itself guaranteed a continuation of income to retired workers. It was not, however, only concerned with the elderly. Its provisions also secured money for workers harmed during industrial accidents and funds for unemployment insurance, aid for dependent mothers and their children, the blind and the physically handicapped.

Subsequent significant national disability laws were often passed as amendments to the Social Security Act, though some reside elsewhere in the U.S. Code. They include the Architectural Barriers Act in 1968, the Urban Mass Transportation Act in 1970, the Rehabilitation Act of 1973, the Education for All Handicapped Children Act of 1975, the Americans with Disabilities Act of 1990, the Individuals with Education Act in 1997, the Air Carriers Access Act of 1986, and the Fair Housing Amendment Act in 1988, which extend protections against discrimination in housing to persons with mental and physical disabilities and also strengthened accessibility requirements. (U.S. Department of Justice, “A Guide to Disability Rights Laws”).

Thanks to these laws people with disabilities have greater access to buildings, public transportation, housing, and education.

The Americans with Disability Act was the most far-reaching of these measures, signed into law in 1990. The ADA prohibits discrimination in employment, public accommodations, and telecommunications. Through these and many other civil rights laws, the 14th Amendment has proven to be a powerful tool used to uphold the rights of women and minorities. It has not proven to be as effective as many in the disability movement hoped, however, due mainly to a Supreme Court ruling more than twenty years ago. *Sutton v. United Air Lines* (527 U.S. 471, 1999) held that persons were not discriminated against in employment if, with aid, their disabilities could be corrected enough so that they could perform some jobs, even if they were denied other jobs because of those disabilities (Reynolds, T., Zupanick, C.E., & Dombeck, M., 2013).

The disability laws concerned specifically with education have also had more limited impact than many advocates have hoped for, but they have been comparatively more

effective. That is perhaps because the 14th Amendment of the United States Constitution includes that very important clause holding that any state may not “deny to anyone within the jurisdiction the equal protection of the laws” (*U.S. Constitution, Art./Amend.XIV, Sec. 1*). It applies to public elementary and high school students as much as to all other persons. In 1954 the United States Supreme Court interpreted the equal protection clause in what was probably one of the most famous decisions issued by the Court, *Brown v. Board of Education* (347 U.S. 483, 1954). It stated: “We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs...are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment.”

The language and the Court’s decision had a significant impact on public education. They produced nearly fifty years of desegregation orders and numerous court cases. Those efforts have not ended racial segregation in American schools, which in some areas, including Philadelphia, is now more extreme than ever, even though the schools are now officially open to all. It has, however, strengthened American commitments to the principle of providing education for all without arbitrary discrimination, and so it has aided the cause of advocates for students with physical and intellectual disabilities who face discrimination in public schools. That is why sources such as “Landmark Cases in Special Education Law ” begin with *Brown v. Board of Education* (Arons, specialeducationlawyernj.com).

Lower federal courts have held the goals of equal education without discrimination, based on the 14th Amendment and embodied in disability statutes, mean that students with disabilities have a right to be educated in the “Least Restrictive Environment” (LRE) in which they and other students can still be effectively educated, given their needs and challenges (e.g. *Oberti v. Board of Education*, 995 F. 2d 1204 [3d Cir. 1993]). The Supreme Court has also ruled that the I.D.E.A. statute means that schools have major restrictions on their rights to exclude students with disabilities altogether and on their ability to make educational decisions without appropriate consultation with students’ parents and students themselves (*Honig v. Doe*, 484 U.S. 305 [1988]).

Though full freedom from discrimination and equal protection has yet to be achieved for students with physical and intellectual disabilities, just as it has yet to be achieved for students of color in America, in both cases, the legacy of the 14th Amendment has included serving as the basis for new laws and judicial decisions that have significantly expanded opportunities for many who were long denied equal educational opportunities. They can serve as foundations for further efforts to strengthen American democracy in these regards, and to secure equal rights for all citizens.

Teaching Strategies

The Fourteenth Amendment, Education, and Student Rights to Equal Protection.

Quick Write Sessions:

During the course of the unit, students will be asked one question per week:

Week one: Can you explain in your own words the importance of the 14th amendment to you and your family members?

Week two: What were the goals and promises of the 14th amendment?

Week three: What are three things the 14th amendment can't deny to citizens?

Week four: What question did the 14th amendment answer?

Students will write their responses in their writing journals for history.

Objectives:

- Define emancipation.
- Analyze in detail manuscript primary sources to determine the central ideas and the meaning of keywords and phrases (e.g., “separate but equal” and “affirmative action”).
- Make inferences about the content, context, and relevance of the primary sources to the development of equal protection of the laws under the 14th Amendment to the U.S. Constitution.
- Develop evidence-based claims and arguments about the connection between school segregation and student exclusion policies and equal protection of the laws under the 14th Amendment to the U.S. Constitution, with reference both to students of color and students with physical and mental disabilities.
- Defend claims based upon the text of primary and secondary sources in making policy-based arguments.

Introductory Lesson (2 sessions):

Students will study the history and the text of Section 1 of the 14th Amendment.

Section I.

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

An important point to stress with my students is that the amendment stresses equal protection under the law, meaning that the protection is the same phrase. This particular clause has been used in several civil rights landmark cases including *Brown v Board of Education* and it also defines the goals of many laws and judicial decisions concerned with the rights of persons with physical and mental disabilities.

Even so, many advocates feel that the courts have not adequately recognized that the rights of people with disabilities are fully protected under the 14th Amendment, the American Bar Association supports legislation that prohibits discrimination based on race, sex, national origin, disability, etc.

The significance of Juneteenth & the 14th amendment

1. Discuss how the reconstruction Amendments came to be.
2. Encourage students to view the history, com video.
3. They need to take notes (Since the unit starts in late October , students have been taught how to take notes and transcribe them).
4. Review student notes in groups of 3-6. For the 2022-2023 school year class size will be 26-33.
5. With a partner have students complete the following google document:

List 2 words, phrases, or sentences that interest you.	Can you explain what the 14th amendment means to kids?	List two words you think the entire class should know,	Why do you think these two words are important to knowing what the text says?
1.	1.	1.	1

2.	2.	2.	2.
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Build Background

Provide a background essay that provides a timeline of landmark Supreme Court cases that implemented the clause in the Fourteenth Amendment.

Lesson # 2:

This lesson details the provisions of major disability laws, including the landmark Americans with Disabilities Act, signed by President George H.W. Bush, and laws specifically focused on education and persons with disabilities, including the Education for all Handicapped Children Act of 1975 and the Individuals with Disability Education Act of 1997. It also looks at the 20th Anniversary speech made by President Barack Obama and his vision for the future of the Americans with Disabilities Act.

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2.	2.	2.	2.

Lesson # 3:

Provide students with the following question:

What is a disability?

Allow students to share their ideas. Then prompt them to think about someone they know who has a disability. Have students share their answers and their relationship with that person.

- **VOCABULARY INTRODUCTION:**

Have students complete the vocabulary activity. If using their personal devices, they should make a copy of the Google Slide and match each term to the appropriate definition. If they are using this as a printed handout, they can draw arrows to the correct match.

HANDOUT: ADA Vocabulary Activity (Google Slide)

Students will match definitions for the following vocabulary terms:

1. Disability
2. Equal Access
3. Public Accommodations
4. MS - Multiple Sclerosis
5. Epilepsy
6. United Nations
7. Guarantee
8. Veteran

- **EXPLORATION:**

After reviewing the vocabulary terms and addressing any misconceptions, have students view the following video clip to learn about the Americans with Disabilities Act. Students should complete the related Graphic Organizer with information from the videos and answer the accompanying questions.

HANDOUT: ADA Graphic Organizer (Google Slide)

VIDEO CLIP 1: President Bush: Signing of the Americans with Disabilities Act (3:11)

VIDEO CLIP 2: President Obama: Americans with Disabilities Act (7:27)

1. What does President Bush say that the Americans with Disabilities Act will provide to people?
2. Why does President Bush say that it is important for all citizens to have access to public places?
3. What “sacred duty” does President Bush refer to in his speech?
4. What does the executive order that President Obama signed do to help people with disabilities?
5. What do you think still needs to be done today to allow all people to have equal access to opportunities?

- **APPLICATION:**

Using what they learned in the video clips, have students select one of the following handouts to complete about the Americans with Disabilities Act.

HANDOUT: ADA Activity: Then and Now Chart (Google Slide)

HANDOUT: ADA Activity: Collage (Google Slide)

- **CONCLUSION:**

Ask students to consider their notes from the videos as well as class discussion as they create a commercial about the benefits of the Americans with Disabilities Act or publicize an area that you think still needs to be changed. The commercial must be 1-3 minutes and should be filmed and turned in with the video file. Props or costumes can be used to add to your commercial.

- Disability
- Epilepsy
- Equal Access
- Guarantee

This Unit Aligns with the Following Content Standards and Goals:

Pennsylvania Fifth Grade Social Studies Standards

5.1.5.A. Understand the rule of law in protecting property rights, individual rights and the common good.

5.1.5.C. Describe the principles and ideals shaping local state, and national government.

- Liberty / Freedom
- Democracy
- Justice
- Equality

5.1.5.D. Interpret key ideas about government found in significant documents:

- Declaration of Independence
- United States
- Constitution Bill of Rights
- Pennsylvania Constitution

5.1.5.E. Identify the individual rights guaranteed by the PA Constitution and the U.S. Constitution.

5.2.5.A. Identify individual rights and needs and the rights and needs of others in the classroom, school, community, state, and nation.

5.2.5.C. Explain why individuals become involved in leadership and public service.

5.3.5.E. Identify the requirements to vote in local, state, and national

8.2.5.D. Examine patterns of conflict and cooperation among groups and organizations that impacted the history and development of Pennsylvania for responding to individual and community needs.

- Ethnicity and race
- Working conditions
- Immigration
- Military conflict

- Economic stability

8.3.5.B. Illustrate concepts and knowledge of historical documents, artifacts, and places critical to United States history.

Common Core Standards:

CCSS.ELA-LITERACY.RI.5.1 Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.

CCSS.ELA-LITERACY.RI.5.2 Determine two or more main ideas of a text and explain how they are supported by key details; summarize the text.

CCSS.ELA-LITERACY.RI.5.3 Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.

Craft and Structure:

CCSS.ELA-LITERACY.RI.5.4 Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a *grade 5 topic or subject area*.

CCSS.ELA-LITERACY.RI.5.5 Compare and contrast the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in two or more texts.

Educating for American Democracy (EAD) Themes:

EAD Theme # 3: We The People: & Educating for American Democracy

EAD Theme # 4: A New Government & Constitution

Bibliography

Arons, Lori E., Esq. “Landmark Cases in Special Education Law,”
specialeducationlawyernj.com.

A compilation of major federal court decisions on the rights of students with disabilities under congressional statutes and the Constitution.

Brown v. Board of Education (347 U.S. 483, 1954).

The landmark Supreme Court decision that banned racial segregation in public schools has since spurred further federal efforts to oppose discrimination in education, including against disabled students.

Educating for American Democracy Themes,
<https://www.educatingforamericandemocracy.org/the-roadmap/7themes/>.

A “roadmap” for civic education prepared by teachers, scholars, and administrators from across the country, from the public and private sectors, and from a wide range of political perspectives.

Honig v. Doe, 484 U.S. 305 (1988).

An important U.S. Supreme Court decision preventing schools from excluding students with disabilities from their student bodies and upholding rights of parents and students to be consulted in educational planning.

Oberti v. Board of Education, 995 F. 2d 1204 (3d Cir. 1993).

A major federal court decision guaranteeing students with disabilities rights to education in the “Least Restrictive Environment” that can meet students’ needs, a standard that limits segregation of students with disabilities.

Reynolds, T., Zupanick, C.E., & Dombeck, M. (2013, May). *Onset and prevalence of intellectual disabilities*. Retrieved December 7, 2017 from the MentalHelp.net website:
<https://www.mentalhelp.net/articles/onset-and-prevalence-of-intellectual-disabilities/>.

[An overview of intellectual disability development and medical issues by contributors to a mental health website.](#)

Sutton v. United Air Lines (527 U.S. 471, 1999)

[A major case making it very difficult for litigants to win protection against employment discrimination under the Americans with Disability Act.](#)

U.S. Constitution. Art./Amend.XIV, Sec. 1.

This section contains the constitutional guarantees of equal protection and the rights of citizenship that define the goals of much civil rights legislation, including laws to protect the rights of persons with intellectual and mental disabilities.

U.S. Department of Education, National Center for Education Statistics. (2016). *Digest of Education Statistics, 2015* (NCES 2016-014). Washington, DC: Author. Online at: <https://nces.ed.gov/fastfacts/display.asp?id=64>

A survey of the extent of educational services for students with disabilities.

U.S. Department of Justice, “A Guide to Disability Rights Laws,” <https://www.ada.gov/cguide.htm#:~:text=The%20ADA%20prohibits%20discrimination%20on,to%20the%20United%20States%20Congress.>

An overview of major disability laws and their current implementation.

. Parent Resources

- [Juneteenth Sources](#)
- [Analyzing the Sources](#)
- [Juneteenth Fact Sheet for Teachers](#)
- [Video: *The Washington Post*: The history behind Juneteenth and why it resonates today](#)
- [Video: Voice of America: Juneteenth—A Day to Reflect on the History and Legacy of Slavery in the United States](#)
- https://www.ducksters.com/history/us_government/fourteenth_amendment.php