Teacher’s Guide

Changing the Constitution

Time Needed: One to Two Class Periods

Learning Objectives. Students will be able to:

- Identify the ways that the constitutional government of the United States has changed over time
- Analyze instances of constitutional change
- Apply constitutional principles to instances of government actions
- Describe the various ways constitutional principles can change: amend, interpret, supplement, implement

Materials Needed:
Student worksheets

Copy Instructions:
Reading (2 pages; class set)
Activity (3 pages; class set)

STEP BY STEP

☐ ANTICIPATE
by asking students to offer up as many constitutional principles as they can.

☐ DISTRIBUTE
the “Name that Principle” activity to each student. (These are covered in more detail in our Constitutional Principles lesson plan.)

☐ REVIEW
the instructions with the class and give the students a few minutes to complete.

☐ PROJECT
the activity and make sure all students have the correct version on their page, as it will act as a reference guide for later in the lesson. Explain that these principles often overlap and reinforce each other in practice.

☐ DISTRIBUTE
the “Changing the Constitution” reading pages.

☐ READ
through the sections on both pages as a class. Make sure to discuss the different kinds of change called out next to the first paragraph. The idea of change in this context may be a little tricky, so call back to these terms as you work through the rest of the lesson.

☐ DISTRIBUTE
the “Drawing it Out” activity page to each student. Read through the instructions and project a version of the graphic organizer to facilitate discussion. You may lead the class through the questions, or have students work through individually.

☐ DISTRIBUTE
the “Tracking Changes” activity pages to each student. Read through the instructions for the first example, reminding students to use the principle worksheet they completed at the beginning of class. You may choose to lead the class through the analysis together, have students work in pairs or individually.

☐ REVIEW
the analysis for each example before moving on to the next, addressing any difficulty or questions as needed. If there is disagreement on the selection of principles, have students discuss.

☐ CLOSE
the lesson by asking students to name the only way the Constitution actually can be changed (the amendment process). Then, ask them to recall one other way change can occur in a constitutional government.

ADDITIONAL RESOURCE: TRACKING CHANGES TEMPLATE

If you want to use additional examples of constitutional change (amendment review, or a way to talk about landmark Supreme Court Cases), we have provided you with a template you can use that mirrors the “Tracking Changes” activity.

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**Changing the Constitution**

**Name that Principle!** The Constitution is a document that supports a set of basic principles, or ideas about government. Complete this infographic to make your own guide for the rest of this lesson.

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- A government’s power is derived from the people.
- Actions of a government need the approval of the people.
- A government only has the power that has been given to it.
- Society is governed by laws, not people, and even the government must follow those laws.
- Power is shared between a central government and smaller units, like state governments.
- Creating different branches within a government divides power to prevent tyranny.
- Each branch of a government can restrain certain actions of the other branches.
Change is in the air...

When you picture the Constitution, it’s probably the old handwritten parchment version held at the National Archives. Encased in glass and protected by guards, it looks pretty fixed. But much has happened over 200 years and that has influenced how the Constitution is understood and applied. Amendments have been added, sections interpreted different ways in different eras, and details added through new laws and regulations.

So, how has our constitutional government changed? And what does it mean when it happens? Do we get a new country or just understand the details differently? Luckily, our government was based on a set of principles that act as the core. The principles aren't removed or added; they just gain greater definition as the Constitution is refined.

Amendments

There is only one way to actually change the content of the Constitution. That’s through the amendment process which is set up and described in Article V. These changes can originate in Congress or in the state legislatures—either way, they come from the people and are approved by the people.

The changes made through amendments carry the same authority as the original Constitution. They are also subject to the same changes in interpretation and application as the original document. When an amendment is added, it becomes part of the Constitution. The rest of the change-makers in this lesson only change how the document is understood and applied—a big difference!

Supreme Court Decisions

The Supreme Court hears cases where there is a question about the constitutionality of a law. The Constitution can’t possibly cover every single situation, so the Justices must interpret the document and apply those interpretations to law. When the Supreme Court decides on the constitutionality of laws, it uses its power of judicial review. These decisions provide a layer of interpretation over the Constitution, and provides guidance to how future laws are addressed.

It’s important to remember that these decisions do not actually change the Constitution, but they can change how we interpret it. This sets a precedent for similar situations and makes a big impact on how we understand a law or part of the Constitution.

Judicial review isn't in the Constitution, but was established in an early case, Marbury v. Madison (1803).
**Federal Law**

When Congress makes new laws, it builds onto the framework of the Constitution. Remember, there are only 7,591 words in the whole document—the Founders had to keep it simple and set up the basics. They knew that the government they created would work to fill in the details.

The Constitution actually sets Congress up for this effort through the addition of the Necessary and Proper Clause. This allows Congress to make any law necessary to help carry out the powers it was given. That’s pretty vague, and it has been understood to mean different things over time. This is also known as the "elastic" clause because Congress has stretched how much is necessary and proper from time to time.

So, federal laws give additional directions, or details to the original set framework of the Constitution. Here's an example: legislation like the civil rights and voting rights acts provided guidelines on how various protections in the Constitution should be accomplished.

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**Additional Methods of Change**

The way we understand and apply the Constitution may also be influenced through other methods. These methods are usually related to provisions in the Constitution, but move into areas not specifically addressed in the document. They may be implied powers, like legislative oversight of the Executive Branch by Congress, or they may be activities that are necessary to the functioning of the government, but aren’t explained fully. These come into play when the Constitution calls for something but does not provide instructions as to how it needs to be done.

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**The more things change...**

...the more they stay the same? You’d think with all this talk about change, our Constitution (and our country) would be in a constant state of adjustment and readjustment. It doesn’t really feel like that for two reasons. First, the kind of changes that have occurred have done so over 200 years. It’s usually slow, and sometimes happens behind the scenes of every day life. Second, remember that the government established by the Constitution in 1789 was based on basic principles that have remained at the core of our nation.

Because the Constitution is based on those foundational principles, any changes to the Constitution or changes in how the Constitution is understood affect how those principles play out in government. Federalism is still federalism, but somethings have happened to help us better define how that idea works in real life. The idea of checks and balances sounds simple until you get into how that works— so we’ve added details and instructions for carrying it out.
Changing the Constitution

**Drawing it Out.** Check out the graphic organizer below to help you understand the web of ways the U.S. Constitution and the government it creates can change over time. Then use the organizer to answer the questions you find below.

![Graphic Organizer](image)

1. Circle the path that shows the only way the actual Constitution can be changed.
2. Use the organizer to explain how the Constitution and Federal Laws are connected.

__________________________________________________________________________________
__________________________________________________________________________________

3. Use the organizer to craft a statement that connects the Constitution to the Supreme Court to Amendments.

__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

4. Based on this organizer, what is the starting point for all the different methods of change?

__________________________________________________________________________________
**Changing the Constitution**

**Track Changes.** The list of ways our constitutional government has changed is long, but let’s check out a few examples and see how they have impacted the principles at the core of the Constitution. Read each example and identify what principles are involved, and how those may have been modified.

**Example One: Who’s Got the Power?**

The War Powers Act of 1973 helped address questions over the roles of the Executive and Legislative Branches when it came to war. The Constitution divides the powers such that the president acts as commander in chief over the armed forces, but the Congress has the power to declare war, as well as the power to raise and support the armed forces. Over the history of the country, most presidents asked and received war declarations from Congress. But during the Cold War through the Vietnam War, presidents committed American troops without that permission.

The War Powers Act established a set of procedures for both branches to follow when the introduction of the U.S. military abroad might lead to armed conflict.

**Method of Change:** Circle the best option.

- Federal Laws
- U.S. Supreme Court Decisions
- Constitutional Amendments
- Informal Methods

**Principles Impacted:** List the principle(s) and how they were changed by this action.

**Example Two: Get out the Vote**

Although the right to vote had been protected, regardless of race and gender by the 1960’s, other forms of voting discrimination persisted. Poll taxes were used by state governments to keep low-income (primary African American) people from voting in federal elections.

The 24th Amendment was introduced by Congress in 1962 and added to the Constitution when it was ratified in 1964. It prohibits states from making the right to vote in federal elections dependent on the payment of a poll tax.

*but wait— there’s more!

The 24th Amendment only addressed federal elections—it took a Supreme Court decision in 1966 (Harper v. Virginia Board of Elections) to declare that poll taxes at any level (state or local) of elections was unconstitutional.

**Method of Change:** Circle the best option(s).

- Federal Laws
- U.S. Supreme Court Decisions
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**Principles Impacted:** List the principle(s) and how they were changed by this action.
### Example Three: Who Makes the Rules?

The Commerce Clause in the Constitution states that “Congress shall have power to regulate commerce with foreign nations, and among the several States, and with Indian tribes.”

A steamboat operator in New Jersey brought a case against a New York law that regulated steamboat travel within the state, impacting those traveling between New York and New Jersey as well. The question before the court was whether or not it was constitutional for both states and the federal government to regulate interstate commerce (business activity across state lines).

The decision in Gibbons v. Ogden stated that it would be impossible for Congress to regulate business activity “among” the states without regulating activity that took place inside a state’s borders. The New York law was struck down since it conflicted with federal law. The Court pointed to the Supremacy Clause when establishing the idea that the Constitution gives the federal government sole power over interstate commerce.

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**Principles Impacted:** List the principle(s) and how they were changed by this action.

### Example Four: Congressional Oversight

The Constitution lists the powers granted to Congress in Article I. Many of those powers require actions that aren’t listed, but are implied. Over time, Congress has developed methods to carry out both the expressed and implied powers. Members of Congress sit on committees whose job is to oversee the actions of the Executive Branch and its many federal agencies.

These regulatory agencies help the president carry out laws. In order to keep this branch from getting too powerful, Congress has established legislative oversight. This creates a system of congressional committees that review, monitor and supervise the various departments in the Executive Branch. Without this oversight, Congress would be unable to exercise the powers the Constitution gives it.

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### Changing the Constitution

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#### Popular Sovereignty

A government’s power is derived from the people.

#### Limited Government

A government only has the power that has been given to it.

#### Rule of Law

Society is governed by laws, not people, and even the government must follow those laws.

#### Federalism

Power is shared between a central government and smaller units, like state governments.

#### Separation of Powers

Creating different branches within a government divides power to prevent tyranny.

#### Checks & Balances

Each branch of a government can restrain certain actions of the other branches.
1. Circle the path that shows the only way the actual Constitution can be changed.

2. Use the organizer to explain how the Constitution and Federal Laws are connected.
   The U.S. Constitution empowers Congress to pass Federal Laws.

3. Use the organizer to craft a statement that connects the Constitution to the Supreme Court to Amendments, but skip the bit about Federal Laws.
   The way the U.S. Constitution is carried out can be subject to legal challenges in court. The final decision on constitutionality rests with the U.S. Supreme Court, and the Court’s interpretation must be followed unless there’s an amendment to the Constitution.
   Students versions of this basic answer may vary.

4. Based on this organizer, what is the starting point for all the different methods of change?
   The U.S. Constitution (it’s where all of the arrows and paths start)
**Changing the Constitution**

**Tracking Changes.** The list of ways our constitutional government has changed is long, but let’s check out a few examples and see how they have impacted the principles at the core of the Constitution. Read each example and identify what principles are involved, and how those may have been modified.

**Example One: Who’s Got the Power?**

The War Powers Act of 1973 helped address questions over the roles of the Executive and Legislative Branches when it came to war. The Constitution divides the powers such that the president acts as commander in chief over the armed forces, but the Congress has the power to declare war, as well as the power to raise and support the armed forces. Over the history of the country, most presidents asked and received war declarations from Congress. But during the Cold War through the Vietnam War, presidents committed American troops without that permission.

The War Powers Act established a set of procedures for both branches to follow when the introduction of the U.S. military abroad might lead to armed conflict.

**Method of Change:** Circle the best option.

- Federal Laws
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- Constitutional Amendments
- Informal Methods

**Principles Impacted:** List the principle(s) and how they were changed by this action.

- Separation of Powers
- Checks and Balances

This federal law provided greater detail regarding powers established in the Constitution that separate the branches. It provides more guidance into how the systems of checks and balances should be implemented.

**Teachers:** Students may vary in how they respond to the section titled “Principles Impacted”. We’ve provided possible responses, but students may be able to argue for different principles or explain them differently.

**Example Two: Get Out the Vote**

Although the right to vote had been protected, regardless of race and gender by the 1960’s, other forms of voting discrimination persisted. Poll taxes were used by state governments to keep low-income (primary African American) people from voting in federal elections.

The 24th Amendment was introduced by Congress in 1962 and added to the Constitution when it was ratified in 1964. It prohibits states from making the right to vote in federal elections dependent on the payment of a poll tax.

*but wait—there’s more!*

The 24th Amendment only addressed federal elections—it took a Supreme Court decision in 1966 (Harper v. Virginia Board of Elections) to declare that poll taxes at any level (state or local) of elections was unconstitutional. This was based on the ideas found in the 14th Amendment.

**Method of Change:** Circle the best option(s).

- Federal Laws
- U.S. Supreme Court Decisions
- Constitutional Amendments
- Informal Methods

**Principles Impacted:** List the principle(s) and how they were changed by this action.

- Consent of the Governed
- Popular Sovereignty

The 24th Amendment amended/added content to the Constitution, making it illegal to restrict voting in federal elections based on the ability to pay a poll tax. The Supreme Court decision interpreted the Constitution to include the elimination of the poll tax in state and local elections as well. Both helped define the two principles and give greater detail to implementing them.
Changing the Constitution

Example Three: Who Makes the Rules?

The Commerce Clause in the Constitution states that “Congress shall have power to regulate commerce with foreign nations, and among the several States, and with Indian tribes.”

A steamboat operator in New Jersey brought a case against a New York law that regulated steamboat travel within the state, impacting those traveling between New York and New Jersey as well. The question before the court was whether or not it was constitutional for both states and the federal government to regulate interstate commerce (business activity across state lines).

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Method of Change: Circle the best option.

Federal Laws
U.S. Supreme Court Decisions

Principles Impacted: List the principle(s) and how they were changed by this action.

Federalism
Limited Government

This case provides greater definition to the Commerce Clause of the Constitution. It places federal power superior to state laws. The principles of federalism and limited government are given greater detail and guidance for implementation.

Example Four: Congressional Oversight

The Constitution lists the powers granted to Congress in Article I. Many of those powers require actions that aren’t listed, but are implied. Over time, Congress has developed methods to carry out both the expressed and implied powers. Members of Congress sit on committees whose job is to oversee the actions of the Executive Branch and its many federal agencies.

These regulatory agencies help the president carry out laws. In order to keep this branch from getting too powerful, Congress has established legislative oversight. This creates a system of congressional committees that review, monitor and supervise the various departments in the Executive Branch. Without this oversight, Congress would be unable to exercise the powers the Constitution gives it.

Method of Change: Circle the best option(s).

Federal Laws
U.S. Supreme Court Decisions

Constitutional Amendments
Informal Methods

Principles Impacted: List the principle(s) and how they were changed by this action.

Checks and Balances
Separation of Power
Limited Government

The methods that Congress has created act to limit the power of the Executive Branch. This adds detail to the powers listed in the Constitution and creates additional checks on the Executive Branch.
### Changing the Constitution

**Track Changes.** Read the example of change in our constitutional government that your teacher has provided. Use this worksheet to break it down and analyze it.

Title Me!

<table>
<thead>
<tr>
<th>Before it was like this...</th>
<th>Then this happened...</th>
</tr>
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<tr>
<td>What was the starting point? How did things work before the change?</td>
<td>Describe what exactly happened, you can quote from a government document or put it into your own words.</td>
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**Method of Change:** Circle the best option.

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**Putting it All Together:** Use your analysis to explain how the constitutional principle changed when this governmental action occurred.

**Principles:** List the principle(s) found in this scenario.