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**Turning Points Lesson Plan**

**Lesson Title:**

Turning Lemons into Lemonade: Better Understanding Freedom of Religion Issues through the Lemon Test

**Essential Question(s):**

Is the Lemon Test a strong method for deciding court cases related to freedom of religion?

Should the common good of the nation trump individual rights related to religion?

**Learning Objective(s):**

* Students will be able to understand and explain the protections guaranteed by the Establishment Clause and Free Exercise Clause in the First Amendment
* Students will be able to apply the Lemon Test to various court case scenarios and construct well-reasoned arguments

**TEKS:**

13. Citizenship. The student understands rights guaranteed by the U.S. Constitution.

C. Identify the freedoms and rights guaranteed by each amendment in the Bill of Rights

**Materials:**

* DVD Player (if you have the DVD).
* You can also watch he film online at: <http://communication.utexas.edu/strauss/turning-points>
* Updated Media Player (recommended)
* *Turning Points* Handouts
* Pen/pencil
* Lemon Drops (optional)

**Warm-up:**

1. Pose the following question for students to answer at the beginning of class:

What is freedom of religion?

 **Introduction to New Material:**

1. Overview the religion clauses in the First Amendment:
	1. Establishment Clause
		1. “Congress shall make no law respecting an establishment of religion”
	2. Free Exercise Clause
		1. "... or prohibiting the free exercise thereof"
2. Overview the Lemon Test, established in Lemon v. Kurtzman (1971). Note that it is commonly used in court decisions related to freedom of religion. According to the test, government practices must have:
	1. A Secular (Non-religious) Purpose
	2. A Secular (Non-religious) Effect
	3. No excessive entanglement with religion

Note that in order for a government practice to pass the Lemon Test, the answer must be ‘yes’ to each of the criteria. Also note that although the Lemon Test is often used to decide matters related to the freedom of religion, it is not without flaws or controversy.

**Guided Practice:**

1. Divide students into groups of four or five.
2. Explain the activity to students. In their groups, they will receive a short freedom of religion scenario based on a previous court case taken up by the U.S. Supreme Court.
3. After they have read their scenario, they are to apply the criteria of the Lemon Test to the specific scenario and write their own decision. Students are to record their answers on the handout.
4. After each group finishes their scenario, they are to rotate until they have completed each one.
5. Bring the class back together and reveal the decisions made by the Supreme Court in each instance. Have groups check their decision and rationale to with the Supreme Court’s Decision. Award “Lemon Points” (extra credit, lemon drops, etc.) to the group with the decision and rationale that most closely resembles the Supreme Court’s decision and rationale.

**Independent Practice:**

1. Explain to students that they are about to watch a video on an important issue related to freedom of religion: conscientious objection.
2. Play the video. After the class has viewed the video, bring the class back for a short discussion about what they witnessed in the video before proceeding to the independent practice portion of the lesson.
3. Depending on remaining class time, students should answer one or all of the following questions related to the video:
	1. Apply the Lemon Test to this scenario. Can the government actually require someone to serve in the military if it is against their religion? Is Fin within his constitutional rights by conscientiously objecting? Explain your answer.
	2. Is the Lemon Test a good procedure for deciding issues related to freedom of religion? Why or why not? Would you propose a different test? If so, what would you propose?
	3. Should the common good of the nation trump individual rights related to religion? Support your answer with reasoning and evidence from today’s class.

**Modifications:**

Special Education and English Language Learner (ELL) modifications:

* You should assign groups purposefully to ensure that each student is able to engage with the reading material
* You may use reading-partner strategy
* You may modify the assessment component by shortening the writing product or asking that students focus on only one aspect of the community for initial writing
* If needed, students may also dictate responses to the teacher or classmate and/or use word processing equipment
* Learning will be supported through group discussion

**Lemon Test Scenarios**

 **Scenario #1**

A woman was fired from her job for refusing to work on Saturdays, which is her religion’s holy day. Because she was fired, she applied for unemployment benefits through her state, but was ultimately denied benefits because the state did not believe she had a strong enough reason to refuse work.

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 **Scenario #2**

A school district in New York City decided that it would have students recite a prayer each morning before the school day started. However, the prayer made a number of students and parents uncomfortable as they felt it violated their First Amendment rights. Despite their concerns, the school continued to require the prayer.

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 **Scenario #3**

A city in Rhode Island paid for, created and displayed a Christmas nativity scene in their city. Some citizens protested claiming that it violated the Establishment clause and that government should not be promoting any religion. Despite their complaints, the city did not take down the display.

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 **Scenario #4**

The state of Wisconsin requires students to attend school until they reach the age of sixteen. However, since many of the things being taught in school are violations of their religion, several Amish families elected to remove their children from school. Because of this, they were convicted of breaking the law.

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 **Scenario #5**

In Massachusetts, churches were granted the authority to prevent alcohol being served within 500 feet of their building. However, a local restaurant owner objected after his alcohol permit was blocked by a church within ten feet of his restaurant, claiming that a church had no constitutional right to do so.

**Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Class:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**For each of the scenarios, indicate whether it is a question of establishment, free exercise or both. Then, using the Lemon Test below, indicate how you would rule if you were a judge.**

**In the Lemon Test, government practices must have:**

* 1. **A Secular (Non-religious) Purpose**
	2. **A Secular (Non-religious) Effect**
	3. **No excessive entanglement with religion**

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| --- | --- |
|  | Using the Lemon Test, how would you rule in this case? Explain your reasoning.  |
| Scenario #1 |  |
| Scenario #2 |  |
| Scenario #3 |  |
| Scenario #4  |  |
| Scenario #5 |  |

**ANSWER KEY**

**Freedom of Religion Scenarios**

 **Scenario #1**

**Sherbert v. Verner, 374 U.S. 398 (1963)**

The Supreme Court voted 7-2 declaring that the woman’s right to free exercise had been violated and that she has a right to refuse to work on her Sabbath. The decision subsequently created another test, known as the *Sherbert Test*, which determines if an individual’s right to free exercise has been violated.

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 **Scenario #2**

**Engel v. Vitale, 370 U.S. 421 (1962)**

The Supreme Court voted 6-1 to declare the law unconstitutional, with two justices unable to participate in proceedings. The Court argued that, with prior precedents, it was a violation of the Establishment clause and the separation of church and state must be maintained.

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 **Scenario #3**

**Lynch v. Donnelly, 465 U.S. 668 (1984)**

The Supreme Court voted 5-4 in favor of the city of Pawtucket, Rhode Island, allowing the nativity scene to be maintained. The Court argued that the display celebrated the holiday and foundations and did not promote the religion.

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 **Scenario #4**

**Wisconsin v. Yoder, 406 U.S. 205 (1972)**

The Supreme Court concurred with a lower court by voting 6.5 to 1.5, with two justices abstaining from the case. The Court argued that the Wisconsin law violated the involved families’ rights to their First Amendment right of free exercise of religion.

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 **Scenario #5**

**Larkin v. Grendel's Den, Inc., 459 U.S. 116 (1982)**

The Supreme Court ruled 8-1 in favor of Grendel’s Den, Inc., arguing that the new Massachusetts’s law was unconstitutional since it forfeited government authority to religious decision-makers.