

Learning Gateways: Presidential powers and its limits

This lesson offers several instructional strategies enabling students to examine more closely Presidential powers and its limits. This lesson builds on familiarity with the executive branch, Article II language, roles of President, Cabinet departments and bureaucracy. The three instructional strategies ask students to read, write and speak on the topic.

LEARNING TARGETS

- identify evidence from the reading to support claims for presidential power
- analyze Presidential power, responsibilities and limits by writing a memo advising President #45 on how to meet the challenges of acting as a foreign policy leader, commander-in-chief, and chief executive.
- examine the scope and limits of Presidential powers by participating in a class presidential power snap debate.

C3 Framework for Social Studies Standards

D2.Civ.3.9-12. Explain how the U.S. Constitution establishes a system of government that has powers, responsibilities, and limits that have changed over time and that are still contested.

CCSS.ELA-LITERACY.W.11-12.1. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

GRADES: 9-12

DURATION: One class period for close read and memo writing strategies; one class period for presidential powers snap debate

MATERIALS:

Articles I,II,III in US Constitution

“How Presidents Interpret the Constitution” by Hal Bruff

Student chart on 3 Presidential Powers, Answer key to chart, Memo format, Presidential Power Snap Debate Strategy, Timeline & Roles

PROCEDURE:

1. Introduce topic by asking students to identify recent actions taken by Presidents. Are such actions necessary when acting as chief executive? Do any actions go too far? Who decides which actions are appropriate? What limits Presidential actions? How do newly elected Presidents learn their new job?

Strategy ONE: Reading for Evidence

- Number students 1-2-3 and assign each group one of the three presidential powers Presidents claim today as discussed in the article, “How Presidents Interpret the Constitution.” Students

read article carefully and complete the chart on their assigned power by adding evidence and examples of the power. A completed chart is attached.

	Claim of Presidential Power	Constitutional claim of power	Constitutional checks on power	Past Presidential actions as precedent	Limits by the People/Politics
1	President controls nation's foreign policy				
2	President controls military				
3	President's duty to faithfully execute the office of President and laws.				

- Re-group students to include all 3 powers and ask students to discuss the power they were assigned and complete the entire chart. All students should have support for each of the three presidential powers.

Strategy TWO: Writing a memo

- Tell students: you are now advisers in the Office of the White House Counsel. Your goal is to give the President advice on the office of the Presidency. Your task is to write a memo advising the 45th President on how presidential powers may be used by the new President during his or her administration. Each group is assigned one of the new President's priorities as the subject of the memo.
- President #45 needs advice when acting in the following policy areas:
 - a. War on terrorism: military intervention, government surveillance
 - b. Environment: climate change, energy
 - c. Immigration: reform, enforcement
- In your memo advise the President on:
 - Which Constitutional powers could the President claim when acting in this area?
 - What possible Presidential actions can be taken? (Brainstorm)
 - Are there earlier Presidential actions that would support this claim of power?
 - Which Constitutional limits might apply?
 - Are there other potential limits from "we the people"?
 - Your group's recommendations for Presidential action.

Memo format

To: President #45
From: Office of the White House Counsel
Subj: Presidential powers claimed in _____
(war on terrorism, environment, immigration)

- Have students read memos to class.
- Ask students,
How do Presidents decide which powers to claim and which actions to take?
Review Bruff's factors influencing how Presidents interpret the Constitution.
 - a. How does a President's personal character influence their choices?
 - b. How does a President's general views and values influence choices?
 - c. How do crises and events influence a President?
 - d. Which incentives would encourage Presidential action?
 - e. Which disincentives or obstacles would discourage Presidential action? How could Congress/Supreme Court/public opinion limit actions?
 - f. Do Presidents consider the weight of past precedents?

Strategy THREE: Presidential Power Snap Debate

1. Students read "How Presidents Interpret the Constitution" by Hal Bruff prior to class. Ask them to read the article with the purpose of agreeing or disagreeing with Professor Bruff's thesis that the president is the single most important interpreter of the United States Constitution.
2. On the day of the debate introduce the debate question,
Is the president the single most important interpreter of the United States Constitution?
3. Divide class in half, one half answers "yes" to the debate question and the other half answers "no." Assign a team leader for each side. Have the team leader distribute roles as follows: opening, persuasive argument, rebuttal argument, questioner or answerer, closing argument. Note: more than one student may fill each role. See handout Description of Roles and Timeline.
4. Allow 15-20 minutes for in class preparation.
5. Ask students to turn desks so both sides are facing each other. Have students sit in the order in which they will speak. See Description of Roles and Timeline handout.
6. Teacher introduces the debate topic and calls on the "yes" opener to begin. Follow the timeline. Do not allow interruptions. Questions and clarifications are part of debate. Teacher could add a competitive element with volunteer students judging performance.
7. Debrief the debate:
 - What were the most compelling arguments on both sides? Weakest arguments?
 - What underlying democratic values (rule of law, separation of powers, checks and balances) do you think are part of this debate?
 - How do you resolve the debate question?

EXTENSION ACTIVITY

Hamilton in Federalist #70 argues for a strong executive. Alexander Hamilton argued that “all men of sense will agree on the necessity of an energetic executive.” How would you describe an “energetic executive” and do you agree with Hamilton that one is needed? Why or why not? What would you tell Hamilton about the Presidency today?

Answer key to close reading activity

Claim of Presidential Power	Constitutional claim of power	Constitutional checks on power	Past Presidential actions as precedent	Limits by the People/Politics
1. President controls nation's foreign policy	Article II "executive power" -receive foreign ambassadors -submit treaties to the Senate	-Congress passes laws, i.e. trade sanctions -Congress appropriates \$ -Senate ratifies treaties with 2/3 vote -Courts – judicial review	-FDR recognized Soviet Union -Nixon recognized Communist China -Obama uses executive agreement with Iran and European nations to limit Iran's nuclear capacity	Elections Public opinion Protests Media Democratic principle - economic freedom
2. President controls military	Article II "executive power" -commander-in-chief	-Congress declares war -Congress appropriates \$ -Congress passes laws, i.e. War Powers Act -Courts – judicial review	-Kennedy, Johnson, Nixon Military action in Vietnam -Kennedy, Cuban Missile Crisis direct and secret negotiations with Khrushchev	Elections Public Opinion Protests Media Democratic principle - control of the abuse of power
3. President's duty to faithfully execute the office of President and laws.	Article II "executive power" -Oath of Office -appointment power	-Congress passes laws -Congress appropriates \$ -President nominated with advice and consent of the Senate -Courts – judicial review	-T. Roosevelt Executive orders promoting conservation and national monuments, reserves of federal lands -Obama issues executive order prioritizing INS resources to deportation of criminals	Election mandate Public Opinion Protests Media Democratic principle - Rule of law



Presidential Power Snap Debate

Description: This activity has all students participating in a class debate model conducted in one class period.

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**adapted from snap debate format presented by California We the People in Washington DC 2005.*



Description of Roles and Timeline

Opening Argument (1 minute per side)

Introduce the basic argument for your side

2 students per team

Persuasive Argument (2 minutes per side)

Deliver the most compelling evidence to support your side's position

3 students per team

Rebuttal (2 minutes per side)

Argue against the persuasive arguments of the other side

3 students per team

Question and Answer Session (6 minutes total)

Each side asks a question of the other side. One student should answer.

Then move on to the next question, alternating sides, until each side has asked and answered at least 3 questions.

3 students or more per team

Closing Argument (1 minute per side)

Speakers repeat the best arguments presented by your peers.

2 students per team

**adapted from snap debate format presented by California We the People in Washington DC 2005*

Draft submitted by JoEllen Ambrose, June 30, 2016