



INTEREST GROUPS AND THE UNITED STATES SUPREME COURT

By Street Law, Inc.

OUTCOMES:

As a result of this lesson, students will be able to:

- define the terms: interest group, *writ of certiorari*, and *amicus* brief
- explain how interest groups influence the United States Supreme Court at two stages: when the Court is granting *cert* and when the Court is deciding a case
- describe how at least one interest group attempted to influence the Court in a particular Supreme Court case
- evaluate whether the influence of interest groups on the Supreme Court is positive or negative

RESOURCES:

- "Granting Cert: How Does the Supreme Court Decide Which Cases to Decide?" by Diana Hess and Louis Gambler, 2006. <http://www.streetlaw.org/content.asp?ContentId=194>

MATERIALS NEEDED TO TEACH THIS LESSON:

- Computer lab with Internet access for all students, especially on Day One and Day Two.
- Handouts and transparencies
 - Handout #1: Initial Reflection About The Influence Of Interest Groups
 - Handout #2: Background Notes --- Interest Groups and the Supreme Court
 - Transparency #1 and Handout #3: Summary of Research Cases and Interest Groups
 - Handout #4: Research Questions:
 - (A): Interest Groups and the Gun Control Case
 - (B): Interest Groups and the Affirmative Action Cases
 - (C): Interest Groups and the School Prayer Case
 - (D): Interest Groups and the Free Speech by Students Case
 - Transparency #2: Directions for Sharing Research

STEPS TO TAKE BEFORE TEACHING THIS LESSON:

- This lesson is a follow-up to a lesson called "Granting Cert: How Does the Supreme Court Decide Which Cases to Decide?," which is free and available from the Street Law web site at: <http://www.streetlaw.org/content.asp?ContentId=194>. In that lesson, students learn to weigh the factors the Supreme Court takes into consideration when it decides whether to grant certiorari (to take a case.) If you have not already taught that lesson, you will want to teach it first.
- This lesson also presumes students have already studied interest groups and the methods interest groups use to attempt to influence government.
- Write the definition of "interest group" on the board. It can be found in step #2 of the lesson plan.
- Prepare handouts for each student and the transparencies.

- Check all the links suggested in the lesson plan and handouts to be sure they are still working.
- Decide if you want to pre-assign students to partners and/or to research cases.
- Create one sign that says “agree” and another sign that says “disagree.” You will use these for the last step of the lesson when students do a “take a stand” activity.

ADDITIONAL NOTES AND SUGGESTIONS:

- Like many law-related education lessons, this one can be improved by including a resource person to co-teach it with you. You may consider inviting an attorney who works for an interest group or a judge. If you do invite them, be sure they have the lesson plan in advance and discuss how to teach the lesson together without lecturing.
- If you wish to substitute other cases, you can find substitutions at Street Law’s website (<http://www.streetlaw.org/content.asp?ContentId=194>), or you can choose your own. You will need to choose cases that:
 - have relatively simple fact patterns --- (you may find them at www.oyez.com)
 - have *amicus* briefs filed in support of the parties (to find out whether a case had amici filings: FindLaw’s Supreme Court Center Docket provides partial lists of amici and some links to briefs (for cases since 1999): <http://supreme.lp.findlaw.com/>. SCOTUSblog Wiki (www.scotuswiki.com), provides lists of amici and links to briefs for cases in the current term. For older cases, try entering the case name and “amicus” in an internet search engine.)
 - involve interest groups that have web sites
- As written, this is a three-day lesson. If you want to shorten the time devoted in class to it, you may consider:
 - skipping the review (in steps 1 and 2) if they are confident the students know the material
 - assigning the computer lab work (steps 6 and 7) as homework
 - writing and distributing excerpts of the particular *amicus* briefs instead of having students find and read them on the web
 - using only one case instead of allowing students to choose a case they are most interested in

TEACHING ACTIVITIES:

DAY ONE:

You need a computer lab at the end of this day, so you may decide to teach the whole lesson there.

1. Distribute **Handout #1: Initial Reflections on the Influence of Interest Groups**. Confirm students understand their task and write the ending time on the board.
2. When time is up, ask the following questions to review what students know about interest groups:
 - What is an interest group?

Interest groups are formal or informal organizations of people who share a point of view about an issue and work together to promote their beliefs.

- Name an interest group that lobbies the local, state, or national government on an important issue. What policy might it like to influence?

Answers will vary. Ex: California fruit growers may want government the government to pass tariffs to discourage consumers from importing fruits. Mothers Against Drunk Driving (MADD) wants the government to pass laws that will lower the legal blood alcohol limit to reduce alcohol-related crashes.

- How do they try to influence government and policy?

Answers will vary, but should include: lobbying policy makers, presenting expert testimony at legislative hearings, attempting to sway public opinion through media or through direct contact with voters, working to elect certain government officials, etc.

- How might interest groups influence the Supreme Court?

Answers will vary. Some interest groups work hard to elect a president and senators who are likely to nominate and confirm justices sympathetic to their concerns.

- Do you think interest groups should influence the Court?

Answers will vary. Be sure to ask students to explain their opinions. Encourage a few volunteers to share their reflections from Handout #1. (Note that the students will reflect on the same question later in the lesson.)

3. Distribute **Handout #2: Background Notes About Interest Groups and the Supreme Court**. Ask students to volunteer reading sections of it aloud as other students read it silently. As you review the handout with students, pay particular attention to important vocabulary. Confirm that students understand the concepts in the handout.
4. (Unless you have pre-assigned partners,) ask students to pick a partner to conduct research with. Ask students to sit next to their partners.

Distribute **Handout #3: Summary of Research Cases and Interest Groups**. Project the companion transparency on the overhead projector.

Briefly review each case and ask students to suggest which interest groups may want to get involved in each case. Record students' answers as they brainstorm.

NOTE: Try not to suggest answers for them, but if they are struggling to think of any interest groups, you may mention one or two that are listed below.

- *D.C. v. Heller*---Brady Campaign to Prevent Gun Violence or the National Rifle Association
- *Gratz v. Bollinger, Grutter v. Bollinger* --- National Urban League or the Center for Equal Opportunity
- *Santa Fe v. Doe* ---Christian Legal Society or The Rutherford Institute (for civil rights)
- *Morse v. Frederick* ---DARE America or National Coalition Against Censorship

5. (Unless you decided to pre-assign pairs of students to research particular cases,) ask each pair of students to choose two cases they would like to learn more about.
NOTE: Pairs should pick their first and second choice cases because you will want to be sure there are at least two pairs for each case.

Once the students have selected their research cases, distribute the version of **Handout #4 (A-D): Research Questions** that refers to their case. Explain that the directions for each case are the same, but the web sites to research are different. Ask a volunteer to read the directions and confirm that students understand the assignment.

6. Tell students to begin their Internet research and to fill in their handout as they work. Write the ending time on board and circulate around the room to help and observe student work.

DAY TWO

This part of the lesson also depends on the computer lab.

7. Students spend this day completing their research assignments as directed in Handout #4. Remind students they will be asked to discuss their research on Day Three. (Alternatively, this might be done out of class.)

DAY THREE

Prepare the classroom by hanging the “agree” and “disagree” signs on opposite ends of one wall or chalkboard. Choose a wall that is long enough for students to stand and to move along.

8. As students get settled into class, ask them to take out all four handouts related to this lesson and to stand next to their research partner.

Ask everyone who studied the first case (about gun control) to raise their hands. You should then form a group of four by combining one research pair with another pair who studied the same case. (If possible, the pairs should have researched different interest groups.) Follow the same steps to form groups of four for the rest of the cases.

9. Project **Transparency #2: Directions for Sharing Research**. Review the directions for students and leave the transparency up throughout the activity so students can check it periodically. Ask the students to share their information as directed. Announce the ending time.
10. NOTE: You may want to add a step for students to learn about the outcome of the cases they studied. At the time this lesson plan was printed, some of the cases were not decided. Either you or your students can go to www.oyez.org and search based on the title of the case.
11. Ask and discuss the following summary questions:
 - How would you define the term interest group in your own words?
 - *Writ of certiorari*?
 - *Amicus* brief?
 - How do interest groups attempt to influence the Court at two particular stages in the review process?

- In your opinion, what motivates interest groups to be involved in Supreme Court litigation?
- Why would a party to a Supreme Court case want one or more interest groups to submit briefs for her or his side of the case?

12. Ask students to take out **Handout #1: Initial Reflection About The Influence of Interest Groups.**

Ask students to answer the following question on the back of the handout:

Do you think interest group involvement in the Supreme Court cases is harmful or helpful for the cause of justice? Explain your answer.

13. Call students' attention to the "agree" and "disagree" signs you have pre-placed on the wall or chalkboard.

Ask all students to listen carefully to the following statement: **The Supreme Court is isolated from the world of politics.**

Ask students to move to the sign that best reflects their thinking about that statement. Tell students they should be prepared to explain their reasons for why they chose to stand where they did.

Ask two or three student volunteers to explain the reasons for their "stance" on the question. Then invite two or three student reflecting the opposite view to give their reasons. Ask students if they wish to move based on the arguments their fellow students have just made.

Follow the above pattern (statement, move, explain one side, explain the other side, move) with this statement, too: **Interest groups represent specific concerns of various groups of people so their involvement in Supreme Court cases is good for democracy.**

After sufficient discussion, thank students for their input to this lesson.

OPTIONAL EXTENSION ACTIVITIES:

- You may want to ask students to write a letter to the policy director of the interest group that they studied. The letter should explain what they have learned (through the assignment) and expresses their support or opposition to the influence that interest group has apparently had on the Court in this particular case.
- Students can work individually or in small groups to choose a pending Supreme Court case and then prepare an *amicus* brief from the perspective of an interest group that would be interested in the outcome of the case. Students may send their briefs to the policy directors at the interest group they wrote about.

RESOURCES

- Thank you to Teacher Amy Weisgram, who contributed her expertise to this lesson.
- For interesting "inside" information about cases currently before the Supreme Court, visit www.scotusblog.com

Handout #2:
BACKGROUND NOTES ---
INTEREST GROUPS AND THE SUPREME COURT

There are essentially two ways interest groups attempt to influence particular cases facing the Supreme Court. When the Court is deciding whether to grant *certiorari*¹ (to take) a particular case, interest groups may file an *amicus brief*² attempting to persuade the Court either to take or not to take that case. Later, if the Court decides to grant the petition of *certiorari*, interest groups may file an *amicus* brief to persuade the Court to decide the case in a certain way.

At the *certiorari* stage:

- The Court receives more than 8,000 petitions for *certiorari* each term and usually hears about 80 cases. They tend to take cases that involve legal issues on which lower courts disagree about what the law should be. The Court also tends to grant *cert* in cases it considers “important.” Cases that generate a large number of *amicus* briefs from interest groups at the *cert* stage may be viewed by the Court as being more important.
- At the *cert* stage, briefs submitted to the Court focus on persuading the Court to take or not to take the case rather than how the case should be decided.
- Remember, whichever party (or side) “won” the case at a lower court may not want the Supreme Court to grant *certiorari* because it will want the lower court decision to stand.
- The most important “interest group” at the *cert* stage is the federal government. When the Solicitor General files a brief on behalf of the federal government asking the Court to hear a case, *certiorari* is usually granted.³

At the decision stage:

- Once the Court decides to hear a case, the parties to the case (those directly involved in the case,) submit briefs on the merits that suggest to the Court how the case should be decided.
- Once again, interest groups can attempt to influence the outcome of a case by filing *amicus* briefs. These briefs provide the Court with suggestions on proposed outcomes for the case and how important stakeholders (including members of their interest group) might be affected by the decision. Amici may also provide the Court with specific technical expertise related to the case. For example, in an affirmative action case, the military might suggest how a certain decision in the case could affect recruitment, leadership, etc.

¹ *Certiorari* is a Latin word meaning “to be informed of.” It is a formal application by a party to have a lower court decision reviewed by the U.S. Supreme Court, which has discretion to approve or deny any such application.

² An *amicus* brief is a “friend of the Court” brief written by an individual or group who is not a party to the case but who wants the Court to know how its decision will impact others.

³ The lawyers in the Office of the Solicitor General represent the United States before the Supreme Court. To learn more about the role of the Solicitor General, go to: www.usdoj.gov/osg

Transparency and Handout #3:
Summary of Cases and Interest Groups

Case	What the case is about*	Interest groups that may be interested in this case
<i>D.C. v. Heller</i>	Washington, D.C., bans residents from keeping handguns in their homes. Does this law violate the Second Amendment?	
<i>Gratz v. Bollinger & Grutter v. Bollinger</i>	The University of Michigan and University of Michigan Law School each consider an applicant's race when making decisions about which students to admit. They do so in order to achieve diversity among the student body. Does this policy violate the Equal Protection Clause of the Fourteenth Amendment?	
<i>Sante Fe v. Doe</i>	A school district has a policy allowing student-led, student-initiated prayer at football games. Does it violate the Establishment Clause of the First Amendment?	
<i>Morse v. Frederick</i>	Students were released from class to attend a parade on the street next to their school. A student held up a sign that said "Bongs Hits 4 Jesus." The principal asked the student to take down the sign. He refused and was suspended. Did the suspension violate his free speech rights under the First Amendment?	

* These case summaries are excerpted and edited from www.oyez.com

Handout #4 - A:
Research Questions ---
Interest Groups and **Gun Control**

Circle the interest group below that you and your partner have been assigned to study:

Brady Center to Prevent or The National Rifle Association
Gun Violence

Both groups are interested in the Supreme Court case *D.C. v. Heller*.

Directions:

Go to the following Web site to learn more about your interest group:

Brady Center to Prevent Gun Violence = www.bradycenter.org

National Rifle Association= www.nraila.org

Browse the home page and then follow the link to “About Us,” to “Mission” or “Current Programs” (Brady Center) or “About” and “Issues” (NRA).

- a.) What are the priorities of this interest group?
- b.) Why might this interest group be concerned about this case?
- c.) In this case, the lower court ruled that the Washington, D.C., law violated the Second Amendment. The Supreme Court has not decided a case about the Second Amendment since 1939. Most other courts in the country have found that the Second Amendment does not provide a right to individual gun ownership, but rather provides a collective right for state militias (like the National Guard) to be armed.
- Given that, would this group want the Court to deny or to grant cert? Explain your answer. (Remember, if this group liked the lower court decision it might want the Court to deny cert and to not hear it.)

Handout #4 - B:
Research Questions ---
Interest Groups and the **Affirmative Action Case**

Circle the interest group listed below that you and your partner have been assigned to study:

Center for Equal Opportunity or National Urban League

Both groups are interested in the Supreme Court cases *Gratz v. Bollinger and Grutter v. Bollinger*.

Directions:

Go to the following Web site to learn more about your interest group:

Center for Equal Opportunity: www.ceousa.org

National Urban League: www.cato.org

Browse the home page and then follow the link to “Our Focus Areas” to “Affirmative Action” (for the Center for Equal Opportunity) or “About Us,” to “Mission,” and “Publications” to “Policy Institute Reports” to “Affirmative Action” (for National Urban League)

- a.) What are the priorities of this interest group?
- b.) Why might this interest group be concerned about this case?
- c.) In this case, the lower court found that the University of Michigan’s admissions practices were acceptable. They found that achieving diversity is a compelling interest for the University, and that it is a sufficient reason to consider race when making admissions decisions.

Given that, would this group want the Court to deny or to grant cert? Explain your answer. (Remember, if this group liked the lower court decision it might want the Court to deny cert and to not hear it.)

Handout #4 - C:
Research Questions ---
Interest Groups and the **School Prayer Case**

Circle the interest group listed below that you and your partner have been assigned to study:

Baptist Joint Committee **or** The Rutherford Institute
for Religious Freedom

Both groups are interested in the Supreme Court case called *Santa Fe v. Doe*.

Directions:

Go to the following Web site to learn more about your interest group:

Baptist Joint Committee for Religious Freedom: <http://www.bjcfa.org/>

The Rutherford Institute: www.rutherford.org/

Browse the home page and then follow the link to “About Us” or “Court Watch” (Rutherford Institute) or “About Us” and “Issues” (Baptist Joint Committee)

- a.) What are the priorities of this interest group?
- b.) Why might this interest group be concerned about this case?
- c.) In this case, the lower court held that the school district’s policy violated the Constitution because the football game messages were public speech authorized by a government policy and taking place on government property at government-sponsored school related events.
- Given that, would this group want the Court to deny or to grant cert? Explain your answer. (Remember, if this group liked the lower court decision it might want the Court to deny cert and to not hear it.)

Handout #4 - D:
Research Questions ---
Interest Groups and the **Free Speech for Students Case**

Circle the interest group listed below that you and your partner have been assigned to study:

DARE America or Students for a Sensible Drug Policy

Both groups are interested in the Supreme Court case *Morse v. Frederick*.

Directions:

Go to the following Web site to learn more about your interest group:

DARE: www.dare.com

Students for Sensible Drug Policy: www.ssdp.org

Browse the home page and then follow the link to “About” (DARE) or “About-Mission” and “Campaigns” (Students for Sensible Drug Policy).

- a.) What are the priorities of this interest group?
- b.) Why might this interest group be concerned about this case?
- c.) In this case, the lower court ruled in favor of the student, arguing that the Supreme Court had said that the First Amendment protected student speech except where the speech would cause a disturbance. Because the student was punished for his message rather than for any disturbance, the Circuit Court ruled, the punishment was unconstitutional.

Given that, would this group want the Court to deny or to grant cert? Explain your answer. (Remember, if this group liked the lower court decision it might want the Court to deny cert and to not hear it.)

Transparency #2: Directions for Sharing Research

Directions:

1. Choose which pair will present its summary of research first.
2. Choose a time keeper from the other pair.
3. The group presenting has five minutes to:
 - ✓ Name the interest group it studied
 - ✓ Tell whether this group would want the case to be heard by the Court or not (and why)
 - ✓ Give the best arguments for how this case should be decided (from the perspective of the interest group studied...)
 - ✓ Answer questions from the listening group
4. Follow the same pattern for the other pair of students as they present.
5. Discuss whether the influence of interest groups on the Court is harmful or helpful for justice. (Be sure to explain your reasons.)