

Lesson Narrative: Right to Effective Counsel

Task- Students will participate in a Moot Court to assess whether defendants were given effective counsel in their trial.

Unit: Civil Rights/Civil Liberties

Persistent Issue: What should society do to promote fairness and justice for people who live within its jurisdiction?

Central Question: Is effective counsel a prerequisite for a democratic society?

LESSON PURPOSES:

1. Students will define the 6th Amendment right to counsel and explain what makes counsel “effective.”
2. Students will analyze the two-prong *Strickland v. Washington* test for ineffective counsel.
3. Students will apply the *Strickland* standard to real and fictional scenarios.
4. Students will evaluate a case in a moot court setting and determine whether the defendant's rights were violated.

Lesson 1: Grabber (ID effective counsel)

Lesson 2: Creating a working definition of effective counsel

Lesson 3: Analyzing Case Scenarios

Lesson 4: Moot Court Preparation and Implementation

Lesson 5: Post-Test

The slideshow for this lesson can be found [at this link](#).

Lesson 1: Grabber: ID traits of effective counsel

Students will read and respond to the following prompt in small groups or pairs and discuss the questions that follow:

You’ve just been arrested and charged with a serious federal crime, like smuggling art across the border. You don’t have the money to hire a lawyer. Tomorrow, you meet the court-appointed attorney who will help decide whether you walk free or spend years in prison. You get 10

minutes with them before your next hearing. What questions do you ask? What do you need from them? And how will you know if they're doing their job?

- Would you trust someone you just met with your future?
- What does it mean to have a “good lawyer”? What skills should they have?
- What should happen to your case if your lawyer barely talks to you, or misses important facts?

After students discuss in small groups, they will share their conclusions with the whole class to spark discussion on what effective counsel *should* be versus what it is.

Lesson 2: Create working definition of effective counsel

This activity can be completed in pairs, groups, or as a whole class discussion at teacher discretion.

After students share their thoughts about what they think effective counsel should be, the whole class will move to creating a definition of effective counsel. Teachers should show this video that introduces effective counsel by highlighting the Strickland Test. The teacher might review the two main criteria of the test, including deficient performance and prejudiced defense. The teacher should also review the 6th amendment and what students have already learned about the right to counsel, due process (14th amendment), and *Gideon vs. Wainwright* (1963).

Below are some discussion questions that can guide student thinking:

- Do you think that the criteria are sufficient for effective counsel?
- What would you add to the criteria set out in the *Strickland* decision if you could?

Lesson 3: Analyzing Case Scenarios- Applying definition to 3 ineffective counsel cases

This activity can be completed in pairs, groups, or as a whole class discussion at teacher discretion

In this portion, students will analyze different scenarios that depict ineffective counsel. For each scenario, students will apply the Strickland test to determine how a judge would rule. After applying the Strickland Test, students will then apply their own opinions to each scenario and take note of the differences. Students will use [this scaffold](#) to organize their ideas.

At the end of class, students will fill out this exit ticket:

- Should it be the role of the government to provide effective counsel? Why or why not?

Lesson 4: Moot Court Preparation and Implementation

This activity can be completed in small groups or as a whole class discussion at teacher discretion.

Teacher will open with this question to assess student understanding of a moot court:

- What is a moot court? Why do law schools across the United States do moot courts as part of their legal training?

In preparation for the Moot Court, students will analyze the [case scenario document](#), analyze and interpret the [amicus curiae briefs](#), and prepare their assigned roles through the use of perspective-taking. While preparing, students will use [this scaffold](#) to organize their argument for their assigned perspective.

The preparation portion of the lesson should take an entire class period. At the end of this period, students should answer **ONE** of the following questions as an exit ticket:

- If you were assigned to argue Mr. Ellis DID receive effective counsel, state the top 3-5 arguments which demonstrate this.
- If you were assigned to argue Mr. Ellis DID NOT receive effective counsel, state the top 3-5 arguments which demonstrate this.
- If you were assigned to be a judge, develop TWO questions for each side.

In the next class period, students will participate in the Moot Court. The directions for this section can be found in the [Effective Counsel Slideshow](#) or listed below.

1. Opening Argument (3 minutes—Effective Counsel)
2. Opening Argument (3 minutes— NOT Effective Counsel)
3. Effective Counsel Arguments (5 minutes)
4. Questions for Effective Counsel Lawyers from SCOTUS (3 minutes)
5. Not Effective Counsel Arguments (5 minutes)
6. Questions for Not Effective Counsel Lawyers from SCOTUS (3 minutes)
7. Closing Arguments for Effective Counsel (3 minutes)
8. Closing Arguments for Ineffective Counsel (3 minutes)
9. Time for Judges to Deliberate
10. All Justices announce their ruling and rationale to whole class

Lesson 5: Post Test (One-pager)

Students will write a 4 paragraph essay in which they will discuss the need for legal counsel when you are suspected or charged with a crime. This is the same essay they will use for the pre-test at the beginning of the Civil Rights/Civil Liberties unit.