

TEACHING TOOLS: NYS UNIFIED COURT SYSTEM

MIDDLE SCHOOL LEVEL

FAIRNESS - IN THE CLASSROOM AND IN THE COURTROOM*

LEARNING CONTEXT

Purpose:

Students will learn about the importance of fairness in our society and how our emphasis on fairness leads us to value justice, due process, equality, and majority rule with respect for minority rights. Students will see how fairness is applied in our justice system and will learn how to address conflict scenarios in a manner that considers the rules, rights, and responsibilities pertaining to themselves and other people.

Grade Level:

Grades 6, 7, and 8

Learning Standard:

Social Studies Standards 1, 4 and 5

Core Curriculum (includes excerpts from the Social Studies Resource Guide with Core Curriculum):

Grade 6: The grade 6 social studies program emphasizes the interdependence of all people, keying on the Eastern Hemisphere. Sixth graders learn that governments change over time and place to meet the changing needs and wants of their people. As an example, students should understand the history of civil law, from family, clan, and tribal groups acting to maintain law and order, to Hammurabi's Code and the Roman's Justinian Code, to the present government-established civil (common law) courts. In modern political states, such formalized governmental structures play a major role in maintaining social order and control.

Grade 7/8: Social studies content in grades 7 and 8 focuses on a chronologically organized study of United States and New York State history. Course content ties political, geographic, economic, and social trends in United States history to parallel trends and time frames in New York State history. The federal and state governments constantly reevaluate their roles with respect to everything from fiscal and monetary policies to social programs and technology changes as efforts toward justice for all citizens continue.

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Concepts/Themes:

- Understanding how the courts insure justice, fairness, and due process for all people who seek to utilize or otherwise become involved in the court system.
- Understanding the role of government in meeting the needs and wants of communities.
- Understanding and examining how rules and laws are developed to govern conflicts.
- Examining how government protects the rights of individuals and promotes the common good.
- Understanding how civil problems are solved.

Prior Knowledge:

Students should be able to grasp the concepts of fairness, justice, due process and equality. They should be able to understand the basic purpose of our justice system, the role of the courts in that system, and the purpose of a trial.

Students should be at a stage where they are able to develop problem-identification and problem-solving skills. They should be able to gather, process, and present information in verbal and written form.

PROCEDURE

The teacher should devote adequate time to discussing the fundamental concepts involved in a manner relevant to the particular grade level. These fundamental concepts will then serve as a backdrop for learning about the justice system, using small claims courts as an example.

The culmination of these activities will be some simple mock small claims hearing scenarios that foster problem solving in a rational manner.

Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students' knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.

Day 1 – Overview: Fairness

The teacher should discuss the concept of fairness by incorporating various age appropriate scenarios into the course materials. For example, the teacher may ask, “What is fairness?” and guide the discussion, or provide some fact patterns and ask the class to discuss a “fair” resolution. The teacher should make it clear that it is our desire for fairness that has resulted in a justice system that ensures due process and equal protection for all people seeking to use our courts.

The teacher will explain that the courts use civil law to resolve conflicts and differences between people. Students should understand the difference between a civil case and a criminal case. The teacher should explain that small claims courts use civil law to provide fair process to people with minor disputes over relatively small amounts of money.

If the teacher is interested in providing a detailed discussion of small claims courts, there is helpful material annexed in the appendix, together with suggested evaluation materials.

Day 2 – Civil Court Field Trip

The teacher should plan a field trip to a local small claims court or other civil court where a case is being heard. (Note that many small claims courts meet after business hours, so it may not be convenient to visit a local small claims court while claims are being heard.) In preparation, the teacher should discuss with the appropriate court personnel a proposed agenda for the students and agree on the time frame for the visit. The teacher should also utilize the New York State Unified Court System’s virtual courtroom tour to help set the context of the court visit.

Students will be able to see how civil court judges (and juries) consider different points of view, how they interpret these points of view, and how a civil court judge may negotiate a compromise to resolve disagreements and problems. Depending on which court they visit, they may witness a small claims hearing, opening or closing arguments, direct or cross examination of witnesses, or a judge’s instructions to the jury. Court personnel should inform the students about what they will see before they enter the courtroom.

In the alternative, the teacher may try to arrange for the students to meet a small claims or other civil court judge. The judge will be able to answer questions and may be able to demonstrate what happens during a hearing by taking the students into the courtroom and conducting mock hearings with the students as parties. The Joe Smith v Smalltown Newspaper scenario (see Appendix) could be provided to the judge for use as an example.

Day 3 – The Students’ Court

The teacher should advise the class that they are going to conduct mock negotiations like the parties to a small claims court case do when they are trying to settle the case.

The teacher should explain some background information about negotiations – that the purpose is to avoid a full scale trial or hearing and to reach a fair compromise before the end of the trial or hearing -- ideally before the hearing even starts.

Small Claims Court Settlement Strategy

Divide the class into groups of three: one student judge, one student claimant, and one student defendant. Each group will be provided with a scenario set forth on three separate sheets of paper. The claimant and defendant will receive a set of facts, including the amount of the claim. The judge will receive some general information about the case and a settlement number that the judge will try to have the parties agree on. It is up to the parties to convey the details of their position to the judge.

The students should understand that it is not the result that is important in this exercise, it is the manner in which a result was reached and whether all of the parties agree that the result was fair. The three students in each group should be able to see all sides of the story but present their own position in a rational manner. This exercise should help students understand the role of the judge in reaching a decision that is fair to all parties and the fundamental aspect of due process -- letting both sides tell their stories.

Negotiating scenarios:

Scenario 1 – the dog bite case

Information for claimant:

The defendant's dog bit your finger. You had to go to the emergency room and incurred medical expenses of \$300. You are suing for \$500.

Information for defendant:

Your dog bit the claimant's finger, but the dog has never bitten anyone before. You think that the claimant was teasing the dog and do not think you should have to pay. However, you want to get out of court as soon as possible, so you are willing to pay to get the case over with.

Information for the judge:

The defendant's dog bit the claimant's finger. The claimant is suing for \$500. You think that the claimant is probably exaggerating the claim and want to see evidence of the bill. However, you also think the defendant should be more responsible about his dog. You think the parties should compromise and the case should settle for \$100.

Scenario 2 – the car accident case

Information for claimant:

The defendant drove into your lane and hit your car. Your car was damaged, and you are suing for \$3000. You have two estimates for the damage: one is low and one is high. You

do not want to have to hand over the lower estimate, so you are willing to settle the case before the end of the hearing.

Information for defendant:

You hit the claimant because you were stung by a bee while driving and you don't think you should have to pay anything. You know the claimant has estimates that will be given to the judge if the case goes to a hearing. You fear that the estimates are high and are now willing to pay to avoid having the claimant give the estimates to the judge.

Information for the judge:

The defendant accidentally hit the claimant's car. The claimant is suing for \$3000, but by law you will need to see two estimates of the damage to the car. You think the claimant may not have two estimates for \$3000. You think the parties should compromise and the case should settle for \$1000.

Scenario 3 – the ballpark case

Information for the claimant:

You were at the ballpark, sitting in a certain area even though you saw a sign that said "Danger Zone – No Sitting." You were hit by a baseball. You missed the next three days of work and lost \$300. You would be willing to take less because you know you saw that "Danger Zone" sign.

Information for the defendant:

When the claimant was hit at the ballpark, you rushed over to help. You noticed that the "No Sitting" sign must have been blown over by the wind, and no one could read it. However, you've seen the claimant at the ballpark before, and you think the claimant should have known not to sit there. You are willing to pay some money, though, to avoid a hearing.

Information for the judge:

The claimant was hit by a ball at the defendant's ballpark. The claimant is suing for \$300. You know there are areas of the ballpark marked "Danger Zone" and wonder where the claimant was sitting when the claimant was hit. You think the parties should compromise and the case should settle for \$100.

Scenario 4 – the sidewalk case

Information for the claimant:

You signed a contract with the defendant and paid the defendant \$200 to shovel your driveway in the winter. The contract says that no matter what happens with the weather, the defendant gets to keep the money. However, it never snowed during the winter, and you want your money back.

Information for the defendant:

You signed a contract with the claimant, who paid you \$200 to shovel the claimant's driveway in the winter. The contract says that no matter what happens with the weather,

you are allowed to keep the money. It never snowed during the winter, so you gave back \$50 to some of your customers. You think the claimant found out about that, so you are willing to give back some money.

Information for the judge:

The claimant signed a snow shoveling contract with defendant and paid \$200 to the defendant. It never snowed and now the claimant wants the money back. You don't know the details of the contract, but you think the parties should compromise and settle for \$100.

Scenario 5 – the reward case

Information for the claimant:

You were in a store and saw someone shoplifting. You saw a sign that offered a \$300 reward for turning in a shoplifter. You reported the shoplifter, but it was actually a store detective performing a training exercise. The store refused to pay you the reward, and you are suing for \$300.

Information for the defendant:

You are a store owner and have a sign in your store offering a \$300 reward for turning in a shoplifter. The claimant saw a store detective performing a shoplifting training exercise and reported the apparent shoplifting. You do not want to pay the reward because it was not actual shoplifting, but you are willing to pay some money in order to keep the claimant as a satisfied customer.

Information for the judge:

The claimant reported a shoplifter to the defendant store owner. The defendant did not pay the promised shoplifting reward of \$300, and the claimant is suing for \$300. You don't know why the defendant did not pay, but you think the case should compromise and settle for \$150.

INSTRUCTIONAL/EDUCATIONAL MODIFICATIONS

The three-person negotiation teams should be assigned with student needs and abilities in mind. If necessary, the teacher can allocate more time to the students to review and conduct their scenarios in order to provide individualized group instruction.

This tool can become a large case study experience or a mock trial experience by adding more facts, witnesses and more trial procedure.

ASSESSMENT PLAN

The teacher can use a rating sheet (sample attached) to measure the skills involved in the negotiating experience. Additionally, the teacher may ask students to take careful notes during the meeting with the judge or any other arranged discussion, collect the notes, review them and offer comment.

The teacher can also use any age-appropriate activities from the New York State Unified Court System Activity Book.

NEGOTIATION EXERCISE RATING SHEET

Give each student a rating of 1 – 5 in each category; 5 is the highest score possible. Share and discuss the results with each student

Knowledge/Use
Of Facts

Clarity of Discussion

Reasonableness of Result/
Ability to Compromise

CLAIMANT
(Student's Name)

DEFENDANT
(Student's Name)

JUDGE
(Student's Name)

APPENDIX

Small Claims Court Terms and Phrases

The teacher should explain the following process and vocabulary relating to small claims court conflict resolution:

1. The person who brings the suit in small claims court is the “claimant”; the person who is sued is the “defendant.” Together, these people are referred to as the “parties” to the case. Anyone over 18 years old can sue as a claimant, and parents or guardians can sue on behalf of a younger claimant. A corporation may not be a claimant, but corporations may be sued as defendants.
2. Parties usually represent themselves in small claims court cases; usually attorneys are not involved, but they are permitted to be involved if a party so desires.
3. The claimant in a small claims court matter files a “claim,” an informal lawsuit in which the claimant seeks to recover a specific amount of money from the defendant. The claimant must pay a filing fee to the small claims court and file papers that include a statement of the facts involved. In addition to the claim, the claimant can also request recovery of the cost of the filing fee from the defendant.
4. The claimant must request a specific amount of money. The largest claim the claimant can make in small claims court is \$3,000 -- this amount is, by law, the “jurisdictional limit” of small claims court. There are other jurisdictional limits, too. For example, the only kind of remedy available in small claims court is a financial remedy, meaning that you cannot sue for “equitable relief.” Equitable relief is when a party asks the court to stop someone from doing something or to make someone do something, other than pay money.
5. It is a fundamental principle of civil law that a defendant must be notified of any action against him or her before the claimant may be granted relief. Once the claimant’s papers are filed with the court, the court will select a court date and notify the parties. The claimant must provide the clerk with the defendant’s street address (not a post office box number). The court clerk “serves” a “notice” of the claim on the defendant by mailing the notice, which contains a brief statement of the claim, the amount of money requested, and the date to appear in small claims court regarding the claim.
6. The defendant is entitled to defend against the claim by providing an explanation as to why he or she does not owe the claimant money. The defendant may also file a “counterclaim” within a certain amount of time. If the defendant needs more time in which to file a counterclaim, the defendant may request an “adjournment.” The defendant may use the counterclaim to assert a claim against the claimant. With the counterclaim, the defendant requests money from the claimant. If the defendant’s counterclaim is successful, it effectively reduces the amount of money that the defendant may owe the claimant if the claimant is successful; the claimant may even end up owing the defendant money on the counterclaim. The amount of the counterclaim cannot be more than \$3000.

7. If the claimant does not appear at the court date, the case is dismissed. If the defendant does not appear at the court date, the judge will hear evidence in the defendant's absence. If the claimant presents sufficient evidence, the claimant may win a "default judgment" in the defendant's absence.
8. If the parties do appear in court, the judge will conduct a "hearing," an informal trial, to gather "evidence." Evidence may be in the form of receipts, documents, "testimony" from witnesses, and testimony from the parties. Small claims court has some evidentiary rules to follow; for example, if you are seeking the cost of services or repairs, you must present two itemized estimates for services or repairs. Also, if you want to compel someone to appear as a witness and testify at the hearing, you may serve a "subpoena".
9. The judge may ask the parties and witnesses questions during their testimony. After hearing all the evidence, the judge will decide the claim, and the parties are usually notified of the decision by mail. The judge's decision to award one of the parties money is the "judgment." If one of the parties is not satisfied with the judge's decision, they may bring an "appeal," but appeals are rarely successful in small claims cases.
10. In order to avoid a hearing in court, the parties may try to "settle" their case, meaning that they will reach a resolution without a hearing, after all. Judges encourage settlement and are always interested in hearing that the parties did undertake settlement efforts to resolve the matter out of court.

Small Claims Court Rules and Procedures

From the information set forth above, examples of jurisdictional and procedural rules may be discussed because it is important for students to know that the justice system is available to every citizen and treats every citizen equally and fairly. In court, the parties are accorded due process and treated with dignity as they and their adversaries seek and receive justice. Examples regarding these important rules follow:

- Smalltown Newspaper Corporation wants to sue Joe Smith. He signed a contract to receive daily newspapers for six months and agreed to a payment plan that allowed him to pay \$10 per month for the papers. He paid his bill for the first month but then never paid again. Smalltown Newspaper Corporation continued to deliver for all six months and wants the \$50 that Mr. Smith still owes.
Can the Newspaper Corporation sue in Smalltown's small claims court?
NO. It is a corporation, and corporations cannot sue in small claims court. This rule is a jurisdictional rule because it prevents corporations from bringing any suit in the small claims court.
- Using the same six month contract-for-delivery scenario, suppose instead that Joe Smith's 16-year old son, Steve, wanted to give his Dad a birthday gift of daily newspapers. Steve told his father that he paid \$60 up front, but Smalltown Newspaper Corporation never delivered a single paper. Steve wants his money back.
Can Steve sue in small claims court?

NO. Steve is not old enough to sue in small claims court, but he could ask his father to sue on his behalf. This is another jurisdictional rule because it prevents Steve from bringing a lawsuit on his own since he is under 18.

- Using the same scenario, suppose that Joe Smith went to small claims court to sue Smalltown Newspaper on Steve's behalf. Joe has never been to Smalltown Newspaper, but he had their mailing address.
Can Joe sue without ever visiting Smalltown Newspaper?
YES. In order to commence his suit, Joe must simply pay the filing fee and provide the clerk with Smalltown Newspaper's address. He is legally able to bring the suit on Steve's behalf, but the procedural rules require him to provide an address for the defendant so that the court can serve notice upon the defendant.
- Using the same scenario, suppose that when Joe to small claims court, he told the clerk that he didn't want money; instead, he wants Smalltown Newspaper to start delivering daily papers to him for the next six months.
Can Joe sue for the daily delivery?
NO. Joe can only request money in small claims court. This is a jurisdictional rule that prevents Joe from being able to sue in that court for that relief.
- Using the same scenario, suppose that Joe brought his claim for \$60. Smalltown Newspaper's president comes to the hearing with a chart indicating that the paper delivery person delivered papers to the Smith house for six months. The delivery person is also present and is willing to testify that he delivered papers to the Smith house. The president wants to counterclaim for \$60, stating that Steve Smith never paid Smalltown Newspaper any money. Joe has come to court without Steve and without any receipts or indication that Steve ever paid any money.
Will Joe win?
NO. Joe has failed to provide any evidence to support his claim. Meanwhile, Smalltown Newspaper has provided evidence that it is owed \$60 for its delivery services. Procedural rules require that once claims are filed, the parties must provide evidence to support their claims.

Students should understand that these jurisdictional and procedural rules protect the rights of everyone involved in a small claims case. For example, requiring the defendant to be notified of the claim and given the opportunity to defend against the claim is similar to the requirement in a criminal trial that the defendant is considered innocent until proven guilty. Requiring that evidence be provided ensures that the judge will be presented with all the relevant facts in order to make an informed decision about the case. Precluding corporations and young children from suing also helps ensure that the parties to a case will be on equal footing so that the justice system provides a fair environment for those who seek to use it.

Name:

Date:

Small Claims Court Vocabulary Test

Directions: Describe what each of the following terms or procedures means in Small Claims Court.

3. Adjournment
4. Claimant
5. Corporation
6. Counterclaim
7. Default Judgment
8. Defendant
9. Equitable Relief
10. Estimates
11. Filing Fee
12. Hearing
13. Money Judgment
14. Jurisdictional Limitation
15. Negotiations

16. Parties

17. Procedural Rules

18. Serving Notice

19. Settlement

20. Small Claims Court

21. Subpoena

22. Testimony

Name:

Date:

Small Claims Court Rules Test

Directions: Are the following statements true or false? If the statement is false, explain why.

1. A corporation can bring a lawsuit in Small Claims Court.
2. There is no need to present evidence to the judge in Small Claims Court.
3. A person who wants to bring a claim in Small Claims Court will have to pay a filing fee.
4. A defendant can counterclaim against a claimant in Small Claims Court for \$10,000.
5. A claimant can win a claim against his or her neighbor in Small Claims Court, and the neighbor will never know.
6. The judge will be happy to know that the parties tried to settle the claim before the hearing.
7. If the defendant cannot respond to the claim in time, there is nothing the defendant can do.
8. The claimant must present two estimates of repairs in order to win a claim for the cost of repairs in Small Claims Court.
9. The claimant must know the defendant's address.
10. The Small Claims Court judge can order the defendant to give the claimant a ride to work every day.