

# **Engel v. Vitale / Mini-Moot Court Activity**

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## ***Santa Fe Independent School District v. Doe (2000)***

### **An Overview of a Mini-Moot Court**

A moot court is a simulation of an appeals court or Supreme Court hearing. The court is asked to rule on a lower court's decision. No witnesses are called, nor are the basic facts in a case disputed. Arguments are prepared and presented on a legal question (e.g., the constitutionality of a law or government action or the interpretation of a federal statute).

### **Activities**

- 1) **Review the facts of the case:** In pairs, read the facts, issues, and constitutional provisions and precedents of *Santa Fe Independent School District v. Doe* (2000).

#### **Useful Vocabulary:**

- **Petitioner:** The person/organization/company who lost in the lower court and now appeals the lower court decision to a higher court.
- **Respondent:** The person/organization/company who won in the lower court and now argues that the lower court decision was correct.

*Note: In some states, different terms may be used such as appellant and appellee.*

With your partner, discuss the following questions:

- What happened in this case?
- Who are the people/organizations/companies involved?
- How did the lower court rule on this case?
- Who is the petitioner? Who is the respondent?
- What is the legal question that has to be resolved in this case?
- How might *Engel v. Vitale* (1962) apply to this case?

- 2) **Identify the issue in this case:**

- Who was the actor(s)?
- What is the specific part of the Constitution involved?
- Who was affected by the action(s)?
- What caused the controversy?

3) **You will be assigned a role:** You will be assigned to be a petitioner, respondent or justice for the mini-moot court. You will meet with others in the class who will play the same role to prepare.

4) **Prepare for your role in groups:**

**Petitioner/respondent attorney group preparation:**

Each group of students should consider:

- What does each side (party) want?
- What are the arguments in favor of and against each side?
- Which arguments are the most persuasive? Why? What counter arguments should you anticipate and how will you rebut them?
- How do the legal precedents, including *Engel v. Vitale* (1962), influence this case? (A precedent is a previously decided case recognized as the authority for future cases on that issue. Using precedents allows for the development of more sophisticated arguments.)
- What might be the consequences of each possible decision? To each side? To society?
- Are there any alternatives besides what each side is demanding?

***Note:** Your team should consider all of the facts in the summary. You may not argue the accuracy of the facts. Your arguments do not need to only be rooted in legal technicalities. Any argument that is persuasive from a philosophical, theoretical, conceptual, or practical standpoint can be made. Teams should rely on principles found or implied in the United States Constitution.*

**Justice/judge preparation:**

You should meet with the other justices to discuss the issue involved and any case precedents. You should prepare at least five questions for each side that you need to have answered by the attorneys in order to reach a decision. The questions should not ask about the accuracy of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument. Think about possible hypothetical problems to ask. How will the decision in this case affect other cases in the future?

5) **The mini-moot court:**

Move to a mini-moot triad. Each triad will have a justice, a petitioner, and a respondent.

The justice will run the mini-moot court. The justice should ask each side to present their arguments in the following order:

<b>Initial Presentation</b>	Petitioner	3 minutes
<b>Initial Presentation</b>	Respondent	3 minutes
<b>Rebuttal</b>	Petitioner	2 minutes
<b>Rebuttal</b>	Respondent	2 minutes

Each side gets three minutes for its basic argument and two minutes for rebuttal. Your teacher will be the official timekeeper of the proceedings.

The justice may ask questions at any time in an effort to clarify the arguments. Time continues to run as the justice interrupts to ask questions.

After all arguments have been presented, the justice should consider the arguments and reach a decision. Justices should write their decisions and a brief explanation of the reason they reached that decision including specific arguments and precedents.

- 6) **Handing down decisions:** Return to your original seats to listen to each justice hand down their decisions and the reasons behind them.

Your teacher will share the Court's decision in *Santa Fe School District v. Doe*.

## **Santa Fe Independent School District v. Doe (2000)**

**Argued:** March 29, 2000

**Decided:** June 19, 2000

### **Facts**

The First Amendment's Establishment Clause prohibits the government from making any law respecting an establishment of religion. It is the basis for the separation of church and state, and prevents the government, including public school districts, from promoting specific religions. This case, *Santa Fe Independent School District v. Doe*, is about whether a school district would violate the Establishment Clause by allowing student-led prayers before a school football game.

In 1995, the Santa Fe Independent School District established a policy that would allow students to give pre-game prayers over the public address system at high school football games. These prayers, which were not required, would be delivered as "invocations" or "benedictions" for the events. As part of the policy, two student elections would be held: the first one would determine whether the students wanted a prayer before games and the second one would determine which student would deliver the prayer. During the pre-game ceremonies, the school district would maintain complete control over the programs and facilities, including the ability to cut off the microphone.

Before the school implemented the policy, two families sued the school district, claiming that the policy violated the First Amendment's Establishment Clause. The families won at both the trial court and Court of Appeals. The school district appealed to the U.S. Supreme Court.

### **Issue**

Does a public school policy permitting student-led, student-initiated prayers at football games violate the Establishment Clause of the First Amendment?

### **Constitutional Provisions and Supreme Court Precedents**

#### – **First Amendment to the U.S. Constitution**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

#### – ***Lemon v. Kurtzman* (1971)**

In 1968, Pennsylvania passed a law allowing the state to reimburse nonpublic, mostly Catholic schools for teachers' salaries, textbooks, and other instructional materials. Taxpayers sued the state, claiming that the law violated the Establishment Clause.

The Court ruled in favor of the taxpayers. In doing so, it outlined the "Lemon Test," a three-prong test for determining whether there is an Establishment Clause violation. First, the government's action must have a secular (non-religious) purpose. Second, the

government's action must not have the primary effect of either advancing or inhibiting religion. And, third, the government's action must not result in an "excessive government entanglement" with religion. Pennsylvania violated the third prong – that is, the state was excessively entangled with religion – because the state would have to monitor that the teachers receiving public money were not advancing religion.

– ***Lee v. Weisman (1992)***

Deborah Weisman's principal invited a rabbi to deliver a prayer at Weisman's middle-school graduation in 1989. The principal advised the rabbi that the invocation and benediction should be nonsectarian. But the rabbi's prayer at graduation repeatedly thanked "God" and concluded as follows: "[w]e give thanks to You, Lord, for keeping us alive, sustaining us and allowing us to reach this special, happy occasion." Weisman's father sued based on the Establishment Clause.

The Court ruled for Weisman: a prayer delivered by a rabbi at a middle school graduation ceremony violates the Establishment Clause. According to the Court, the school's involvement in the religious exercise at graduation was 'pervasive'. Also, the school's control over the ceremonies places both public and peer pressure on students to stand as a group or remain silent during the prayer. Although a person might stand for the prayer merely as a sign of respect for others, such an action could properly be construed as accepting the message. In other words, "[t]here can be no doubt that for many, if not most, of the students at the graduation, the act of standing or remaining silent was an expression of participation in the Rabbi's prayer" and a school cannot "persuade or compel a student to participate in a religious exercise."

# Handout I: Justice/Judge

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Prepare at least five questions to ask each side (petitioner and respondent). The questions should not ask about the accuracy of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument.

Call the case to order by saying, “We will hear arguments today in (case name).” After hearing arguments from both the petitioner and the respondent, decide whether you think the decision of the lower court should be upheld or overturned. Be prepared to share the reasoning behind your decision.

<b>Case name:</b>	
<b>Constitutional question(s):</b>	
<b>Questions for petitioner:</b>	
<b>Questions for respondent:</b>	

Questions for respondent (cont.):

**Notes on the petitioner's argument:**

**Notes on the respondent's argument:**

Notes on respondent's argument (cont.):

**Decision:**

**Reasons for decision (opinion):**

Consider the strengths of the arguments and how precedents should be applied. Be sure to consider the impact of your decision on other situations that may arise in the future. If there is a precedent that is directly on point (very similar to your case) and you decide NOT to follow that precedent, be prepared to explain why you are overturning an established precedent (this should only happen on rare occasions and for extremely compelling reasons).



# Handout 2: Petitioner

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Outline an argument for the petitioner using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the respondent's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court wrong?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

<b>Case name:</b>	
<b>Petitioner:</b>	
<b>Constitutional question(s):</b>	
<b>Precedents that support your argument:</b>	

**Argument for petitioner:**

**Possible questions from justice:**

**Respondent argument notes:**

**Rebuttal points:**

# Handout 3: Respondent

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Outline an argument for the respondent using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the petitioner's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court right?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

<b>Case name:</b>	
<b>Respondent:</b>	
<b>Constitutional question(s):</b>	
<b>Precedents that support your argument:</b>	

**Argument for respondent:**

**Possible questions from justice:**

**Petitioner argument notes:**

**Rebuttal points:**