
SEPTEMBER 17, 2025: CONSTITUTION DAY CURRICULUM

Judicial Independence and the Rule of Law

Video conversation with retired United States Supreme Court Justice Stephen Breyer and Duquesne University President Ken Gormley (a Constitutional scholar) with introductory remarks by Jeffrey Rosen, President & CEO of the National Constitution Center

How to Use This Lesson for High School Students

- Play the 25-minute video straight through or pause at points for discussion.
- Use the questions below to guide a class discussion.
- Designed for a 50–60 minute class period.
- **Particularly useful for a Constitution Day class or program, on Wednesday, September 17, 2025, to fulfill Congress’s requirement of educational programming on this day.**

Learning Goals

Students will:

- Define judicial independence and explain why it matters.
- Recognize why judges sometimes make unpopular decisions.
- Reflect on their own role in sustaining democracy.

Discussion Questions

1. What does “judicial independence” mean in your own words?
2. Why would the Framers be concerned about judicial independence?
3. In sports, fans must accept a referee’s call even if they do not like it. How is that similar to accepting court decisions you might disagree with?
4. Judges in some countries must answer directly to politicians. What problems might that cause?
5. Sometimes judges face threats after making an unpopular decision, which are not protected by the First Amendment. What are some ways that you could show your disagreement related to a judge’s decision that would be protected by your First Amendment rights?

6. Justice Breyer and President Gormley talked about how leaders in the past accepted Supreme Court rulings even when they disagreed with the rulings (for example, *Bush v. Gore*). How was that important for democracy?
7. Judges, unlike politicians in other branches of government, cannot go on TV or social media to defend themselves, even when attacked. Justice Breyer said local bar associations and lawyers should help explain court rulings. Why is that important, and what role can students play in that effort?
8. Why is Constitution Day a particularly appropriate day to talk about the importance of judicial independence?
9. Justice Breyer mentioned specifically that high school students need to understand how our democracy works. What can you and your generation do to help preserve trust in our courts?

AP/Honors Level Questions

10. Justice Breyer referred to *Federalist 78*, where Alexander Hamilton considered which branch of government should have the last word. Why did Hamilton reject giving that final power to Congress or the President, and why did he choose judges instead?
11. Justice Breyer mentioned that many United States Supreme Court cases are unanimous, but the media often focus only on the decisions that come down to a 5-4 split between justices. How does the media's focus on these split decisions impact how people view the Court?
12. Justice Breyer opposed impeachment as a tool for disagreeing with decisions. What danger did he say it would create for the judicial system, if efforts were made to impeach judges every time their decisions were unpopular?