**Lesson Overview**

**Overview:** This lesson will teach students how the legal system works and how a case progresses through the state courts.

**Objectives:** Students will be able to…
- Define key terms related to a trial.
- Outline the trial process
- Distinguish between different levels of law
- Describe similarities and differences between federal and state courts, trial and appellate courts, and civil and criminal courts
- Participate in a mock trial simulation

**Time Required:**
- One 50 Minute Class period for activities prior to trial simulation
- Time will depend on the trial simulation selected for your class

**Materials Needed:**
- Handout A: Walking through a Trial Vocabulary Match Up
- Handout B: Walking through a Trial “Steps” in a Trial

**Next Generation Sunshine State Standards:**
- Simulate the trial process and the role of juries in the administration of justice. (SS.7.C.2.6)
- Identify sources and types (civil, criminal, constitutional, military) of law. (SS.7.C.3.10)
- Diagram the levels, functions, and powers of courts at the state and federal levels. (SS.7.C.3.11)

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**Walking Through a Trial**

**Procedures**

1. Let students know that in learning about the legal system, there are lots of new terms that they will need to know. Distribute copies of the vocabulary terms from Handout A. This can be done as a small group or full class activity. If doing as a small group, provide each group with all of the vocabulary words and definition cards and have students match the terms to the definitions. If doing as a full class, distribute vocabulary words to half of the class and definitions to the other half of the class.

2. Have students circulate around the room and find the matching definition to the vocabulary term. After students have found their corresponding matches, they should stand together (corresponding term and definition) in pairs and share the vocabulary word and definition. Debrief all terms with the full class so that all students know the definitions.

3. Assemble students in groups of three and give each group a set of the Walking through a Trial packet (Handout B). Ask students to put the steps of a trial in order based on what they know about the trial process through television or other means.

4. Once all groups have completed the tasks, review the basic steps with the full class to ensure they have the steps in the correct order. Teacher handout with answer provided. Optional: Bring in a resource person (attorney or judge from the local community) to help debrief and answer questions.

5. Review with students the hierarchy of law, differences between state and federal courts, trial and appellate courts, and civil and criminal cases using the handouts and information below. This will help prepare students for the mock trial simulation.
### Procedures, Continued

6. In preparing for the FLREA and FAWL classroom simulation and competition, teachers may elect to utilize the [iCivics MGM v. Honda](#) scripted civil trial as an introductory activity.

7. Then select one of the two cases provided for the middle school mock trial competition depending on the ability level of your students as well as their interests. Then utilizing the rules and guidelines provided, submit an electronic version/videotaped copy of the classroom simulation utilizing one of the two cases provided.

### Additional Resources

The following handouts are provided in the lesson materials to use at the teacher’s discretion.

**Additional handouts provided:**

- Criminal and Civil: What is the difference?
- Trial and Appellate: What is the difference?
- State and Federal: What is the difference?
- Hierarchy of Law
- Background information on the courts for teachers
### Handout A

**Walking Through a Trial Vocabulary Match Up!**

Instructions: If doing activity as a small group, provide each group with all of the vocabulary words and definition cards and have students match the terms to the definitions. If doing as a full class, distribute vocabulary words to half of the class and definitions to the other half of the class. Have students circulate around the room and find the matching definition to the vocabulary term. After students have found their corresponding matches, they should stand together (corresponding term and definition) in pairs and share the vocabulary word and definition. Debrief all terms with the full class so that all students know the definitions.

<table>
<thead>
<tr>
<th>Role</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td><strong>Judge</strong></td>
<td>I oversee the trial and make sure the law and courtroom rules and procedures are followed and the trial is fair.</td>
</tr>
<tr>
<td><strong>Jury</strong></td>
<td>We listen to the evidence and determine the facts of the case then decide the verdict.</td>
</tr>
<tr>
<td><strong>Defense Attorney/Public Defender</strong></td>
<td>I am the lawyer that represents the defendant.</td>
</tr>
<tr>
<td><strong>Objection</strong></td>
<td>This term is used by a lawyer when they oppose a question asked by an attorney or an answer given by a witness</td>
</tr>
<tr>
<td><strong>Witness</strong></td>
<td>I answer questions and provide testimony in a case if called by the lawyers during the trial.</td>
</tr>
<tr>
<td><strong>Charge</strong></td>
<td>In a criminal case, this is what the defendant is accused of doing wrong.</td>
</tr>
<tr>
<td><strong>Overrule</strong></td>
<td>When a judge disagrees with an objection that a lawyer makes during a trial.</td>
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<tr>
<td>Defendant</td>
<td>I am the person accused of doing something wrong in court.</td>
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<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>State attorney/Prosecuting Attorney</td>
<td>I am the lawyer who brings criminal charges against the defendant on behalf of the people of the state.</td>
</tr>
<tr>
<td>Evidence</td>
<td>Materials or testimony presented to provide proof in a court.</td>
</tr>
<tr>
<td>Opening Statement</td>
<td>Presentations made by the lawyers at the beginning of the trial.</td>
</tr>
<tr>
<td><strong>Closing Statement</strong></td>
<td>Presentations made by the lawyers at the conclusion of the trial.</td>
</tr>
<tr>
<td>-----------------------</td>
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</tr>
<tr>
<td><strong>Sustain</strong></td>
<td>When the judge agrees with an objection that a lawyer makes during a trial.</td>
</tr>
<tr>
<td><strong>Verdict</strong></td>
<td>The decision made by the jury or judge at the end of the trial.</td>
</tr>
<tr>
<td><strong>Testimony</strong></td>
<td>Statements made under oath in a courtroom by witnesses.</td>
</tr>
<tr>
<td><strong>Civil Trial</strong></td>
<td>Involves conflicts between people or entities such as businesses; non-criminal dispute.</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Criminal Trial</strong></td>
<td>Involves enforcing public codes of behavior as embodied in our laws with the government prosecuting individuals or entities.</td>
</tr>
<tr>
<td><strong>Bailiff</strong></td>
<td>I am an officer of the court and provide security and protection to the judge and persons in the courtroom.</td>
</tr>
</tbody>
</table>
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

- Jury deliberates and determines the verdict.
- Defendant’s attorney cross examines each witness for the prosecution.
- Cross examination
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

- Prosecution’s attorney calls witnesses first and asks questions.
- Direct examination
- Defendant’s attorney makes an opening statement.
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

Prosecution’s attorney gives closing arguments.

Bailiff/clerk opens the court session.
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

- Defendant’s attorney calls witnesses and asks questions.
- Direct examination
- Decision is announced.
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

Prosecution’s attorney makes an opening statement.

Defendant’s attorney gives closing argument.
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

 Prosecution’s attorney gives rebuttal (optional).

 Prosecution’s attorney cross examines each witness for the defense.

 Cross examination
Walking through a trial

Instructions: Working in small groups, cut out the “steps” of a trial and put them in the correct order.

1. Judge enters courtroom and provides introductory remarks to jury.
2. Judge provides specific jury instructions prior to jury deliberation.
Walking Through a Trial

1. Bailiff/Clerk opens the court session
2. Judge enters courtroom and provides introductory remarks to jury
3. Prosecution’s attorney makes an opening statement
4. Defendant’s attorney makes an opening statement
5. Prosecution’s attorney calls first witness and asks questions (direct examination)
6. Defendant’s attorney cross examines witness for the Prosecution.

*Note: Prosecution may have multiple witnesses. For each witness the attorney for the Prosecution will question the witness and the defendant’s attorney will immediately follow with the cross examination.

7. Defendant’s attorney calls first witness and asks questions (direct examination)
8. Prosecution’s attorney cross examines witness for the defense

*Note: Defendant may have multiple witnesses. For each witness the attorney for the defendant will question the witness and the Prosecution’s attorney will immediately follow with the cross examination.

9. Judge provides specific jury instructions
10. Prosecution’s attorney gives closing argument
11. Defendant’s attorney gives closing argument
12. Prosecution’s attorney gives rebuttal (optional)
13. Jury deliberates and determines verdict
14. Decision is announced
Civil and Criminal: What is the Difference?

Image from www.icivics.org
**Different Kinds of Courts**

<table>
<thead>
<tr>
<th>Fair and Impartial Application of the Law</th>
<th></th>
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<tbody>
<tr>
<td><strong>Trial Court</strong></td>
<td><strong>Appellate Court</strong></td>
</tr>
<tr>
<td>Judges sit individually</td>
<td>Panel of judges</td>
</tr>
<tr>
<td>Juries are present in certain cases</td>
<td>No juries</td>
</tr>
<tr>
<td>Prosecution/Plaintiff or Defendant/Defense</td>
<td>Petitioner/Respondent or Appellant/Appellee</td>
</tr>
<tr>
<td>Attorneys call witnesses and present exhibits as evidence</td>
<td>Attorneys submit briefs and present oral arguments on legal or policy issues</td>
</tr>
<tr>
<td>First opportunity for a case to be heard and establishes facts</td>
<td>Determines if the law was applied correctly and/or if the trial was fair</td>
</tr>
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*Appellate courts do not rehear the case over again. Appellate courts focus on questions of law, NOT on questions of facts like the trial courts. The appellate judges want to know whether the law was applied correctly.*

**Trial and Appellate: What is the Difference?**
# State v. Federal: What is the Difference?

<table>
<thead>
<tr>
<th>State Courts</th>
<th>Federal Courts</th>
</tr>
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<tbody>
<tr>
<td>Outlined in Article V of the Florida Constitution</td>
<td>Outlined in Article III of the U.S. Constitution</td>
</tr>
<tr>
<td>Broad jurisdiction, or power to hear certain cases. Cases would include violations of state laws, including but not limited to, robberies, traffic violations, broken contracts, and family disputes.</td>
<td>Hear cases involving violations of the U.S. Constitution or federal laws, cases in which the U.S. is a party, cases between citizens of different states if the amount in controversy exceeds $75,000, and bankruptcy, copyright, patent, and maritime law cases.</td>
</tr>
<tr>
<td>Florida judges are elected in nonpartisan, contested elections for six year terms.</td>
<td>Federal judges are nominated by the President and confirmed by the Senate. Appointed for a life term.</td>
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The Hierarchy of Law

If there is a conflict between a lower law and a higher one, the higher one “prevails”.

State Constitutions

State Statutes (laws)

City and County Laws

Acts of Congress
Federal laws

United States Constitution

The U.S. Constitution is the “Supreme Law of the Land.”
Laws impact our daily lives and can originate at the local level, the state level, and the federal level. Review the hierarchy of law chart. See handout one. Review the Center on Congress Impact of Congress video. (Add link.)

Under Federalism, power is divided between the national/federal government and other smaller state or regional governments. We similarly have two parallel court systems in this country; state and federal courts. Federal courts are established under the U.S. Constitution by Congress to decide disputes involving the Constitution and laws passed by Congress. State courts are established under state constitutions and laws.

The differences between federal courts and state courts are further defined by the kinds of cases each court is authorized to hear. This is referred to as the jurisdiction of the courts, or the power of the courts to hear certain types of cases.

Federal court jurisdiction is limited to the types of cases listed in the United States Constitution and specifically provided for by Congress. For the most part, federal courts hear cases involving violations of the US Constitution or federal laws (under federal question jurisdiction), cases in which the United States is a party, cases between citizens of different states if the amount in controversy exceeds $75,000, as well as bankruptcy, copyright, patent, and maritime law cases.

- Federal Question Cases

These cases involve the U.S. Government, the U.S. Constitution or other federal laws. Examples include:

- A crime that is a violation of federal law, such as bank robbery, drug cases, guns, or kidnapping.
- Civil cases based on federal laws, such as laws prohibiting employment discrimination, or laws regulating securities trading or competition (anti-trust).
Teacher Content Background and Overview

- Cases involving interstate commerce or interstate criminal activity.
- A controversy arising out of the U.S. Constitution or other federal laws, such as a violation of a protection guaranteed by the Bill of Rights.
- A case in which the United States is a party, such as Social Security claims or federal tax violations.
- A controversy between two states.
- A case involving foreign governments such as international trade or foreign treaties.
- All bankruptcy, patent, copyright, Native American, and maritime cases.

- Diversity of Citizenship Cases

These cases involve disputes between two parties not from the same state or country. Examples include:

- Between citizens of two different states.
- Between a U.S. citizen and a citizen of another country.
- NOTE: The case must involve a claim for at least $75,000 in damages – if not then it must be filed in state court instead.

State courts, in contrast, have broader jurisdiction, so the cases individual citizens are most likely to be involved in—such as robberies, traffic violations, broken contracts, and family disputes—are usually tried in state courts. The only cases state courts are not allowed to hear are lawsuits against the United States and those involving certain specific federal laws: criminal, antitrust, bankruptcy, patent, copyright, and some maritime law cases.

Criminal cases involving federal laws can be tried only in federal court, but most criminal cases involve violations of state law and are tried in state court. We all know, for example, that robbery is a crime, but what law says it is a crime? By and large, state laws, not federal laws, make robbery a crime. There are only a few federal laws about robbery, such as the law that makes it a federal crime to rob a bank whose deposits are insured by a federal agency. Examples of other federal crimes are bringing illegal drugs into the country or across state lines and use of the U.S. mails to swindle consumers. Crimes committed on federal property, such as national parks or military reservations, are also prosecuted in federal court.
Federal courts may also hear cases concerning state laws if the issue is whether the state law violates the federal Constitution. Suppose a state law forbids slaughtering animals outside of certain limited areas. A neighborhood association brings a case in state court against a defendant who sacrifices goats in his backyard. When the court issues an order (called an injunction) forbidding the defendant from further sacrifices, the defendant challenges the state law in federal court as an unconstitutional infringement of his religious freedom.

Some kinds of conduct are illegal under both federal and state laws. For example, federal laws prohibit employment discrimination, and the states have added their own laws. A person can go to federal or state court to bring a case under the federal law or both the federal and state laws. A case that only involves a state law can be brought only in state court.

Appeals for review of actions by federal administrative agencies are also federal civil cases. Suppose, for example, that the Environmental Protection Agency issued a permit to a paper mill to discharge water used in its milling process into the Scenic River, over the objection of area residents. The residents could ask a federal court of appeals to review the agency’s decision.

In addition to state and federal courts, we have different levels of courts. Namely we have trial and appellate courts.

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**Different Kinds of Courts**

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At both the state and federal levels, courts hear both civil and criminal cases. A civil case involves conflicts between people or entities such as businesses. A civil case usually begins when a person or organization determines that a problem can’t be solved without the intervention of the courts. In a civil case, one or more of these persons or organizations files a complaint in court that begins a lawsuit. The case is started by the person who feels their rights have been violated or they have been wronged by another person or entity. This person is the plaintiff. They want to protect their interests and, if appropriate, to collect damages from the person who wronged them. The person being sued is known as the “defendant.” In a civil case, the person who feels wronged decides whether or not to bring suit against the wrongdoer. The person also decides how much money in damages to seek.

In civil cases, if the wrongdoer is found responsible the court can enter a judgment for the plaintiff including money damages, reimbursement for certain costs and perhaps even specific performance of something to be done that was not done.

In a civil case, it is up to the plaintiff, the person who has started the lawsuit, to prove his or her case with stronger evidence than the defendant has -- that is, by a preponderance of the evidence. In other words, for the plaintiff to win the case, the judge or a jury must believe that the weight of the plaintiff’s evidence is greater than the weight of the defendant’s evidence.

A criminal case, on the other hand, involves enforcing public codes of behavior as embodied in our laws with the government prosecuting individuals or entities. The prosecutor represents the government and brings the action before the courts. The State Attorney or the U.S. Attorney serve as the prosecutors depending on the level of government involved in the case. The accused, also known as a “defendant,” is charged with a crime against society – that is, a violation of the laws regulating our conduct, such as murder, rape, conspiracy, theft, DUI, vandalism, robbery, etc. In addition, less serious conduct such as driving without a license or conducting door-to-door solicitation without a permit may also violate criminal laws.

In a criminal case, the prosecutor or a grand jury decides whether to initiate criminal proceedings, that is, to charge the defendant with violating a law. If a defendant is found guilty of a crime, the punishment can be: fines, reimbursement to victims of the crime, attending classes to educate the offender on avoiding similar behavior, attendance at drug or alcohol counseling, probation, jail and/or prison. The punishment depends upon the circumstances and the type of crime for which the wrongdoer is convicted as well as state or federal law and sentencing guidelines.

In a criminal case, because a person is presumed to be innocent until proven guilty, the prosecution must prove the case beyond a reasonable doubt. This does not mean beyond all possible doubt, but it does mean the court or jury must have an abiding conviction to a moral certainty of the truth of the charge. This is a much heavier burden of proof than in a civil case.