

Sexual Rights: Who Decides?

A Lesson Plan from Rights, Respect, Responsibility: A K-12 Curriculum

Fostering responsibility by respecting young people's rights to honest sexuality education.

NSES ALIGNMENT:

By the end of 10th grade, students will be able to:

CHR.10.CC.2 – Describe what constitutes sexual consent, its importance, and legal consequences of sexual behavior without consent.

IV.10.CC.1 – Identify the state and federal laws related to intimate partner and sexual violence (e.g. sexual harassment, sexual abuse, sexual assault, domestic violence)

By the end of 12th grade, students will be able to:

IV.12.INF.1 – Analyze how peers, family, media, society, culture, and a person's intersecting identities can influence attitudes and beliefs about interpersonal and sexual violence.

SH.12.INF.4 – Analyze the state and federal laws related to minors ability to give and receive sexual consent and their association with sexually explicit media.

TARGET GRADE: Grade 12
Lesson 3

TIME: 50 Minutes

MATERIALS NEEDED:

- White board and markers
- At least 4 copies of each mock trial handout
- Handout – “Federal Laws”
- Handout – “Resources: Rape and Sexual Assault,” one half sheet per student

ADVANCE PREPARATION FOR LESSON:

- Make at least 4 copies of each of the handouts: Witness Roles, Judges Panel - Court Schedule, and the Sworn Affidavits, cut one copy of the Witness Roles into their individual parts.
- Make one copy of the Legal Teams.
- Make enough copies of the Resources for all students.
- Make enough “Federal Laws” handouts for all students.
- Review the state laws regarding sexual violence in your state: https://apps.rainn.org/policy/?&_ga=2.74456338.1272530949.1653330744-835502674.1650918883#report-generator

LEARNING OBJECTIVES:

By the end of this lesson, students will be able to:

1. Identify state laws relating to consent, age of consent and statutory rape. [Knowledge]
2. Describe the relationship between consent, age of consent and sexually explicit media. [Knowledge]

A NOTE ABOUT LANGUAGE:

Language is really important and we've intentionally been very careful about our language throughout this curriculum. This particular scenario is about a situation where the perpetrator was a boy and the victim was a girl, but the laws are written to be gender-neutral. It's important to acknowledge that a person of any gender could be a perpetrator or a victim in a statutory rape case or in a sexual assault of any kind. Students may revert to an assumption of male perpetrator and female victim, but these stereotypes are not useful for addressing violence and supporting victims.

PROCEDURE:

Note to the Teacher: *This lesson addresses a statutory rape. Although the description of what happens between the two people is not very graphic, you may want to give students a notice about the topic at the beginning of class and follow up with any students who may need support.*

STEP 1: Say, “There are parts of sex and sexuality that are for us as individuals to decide for ourselves. We all have rights – even when you're under 18, you have some rights. Yet there are some aspects of sex and sexuality that society has created laws about.

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Say, "Sometimes a law is passed that makes sense to some people, but not to others. And as you know, laws can be interpreted by different judges and different lawyers. We're going to look at an example of this today." (5 minutes)

STEP 2: Explain that you are going to have a mock trial about a particular case, and you are going to need students to play different parts. Tell them that you are going to give them 5 minutes to discuss how they plan to play their role, which will be provided to them.

Say "We're going to talk about a party in which two people were charged with two different sexual assaults. During the party, there was lots of people taking cell phone video. This video was shared with the police. The first case involves a 16 year old who is on trial for statutory rape for having sex with a 15 year old at a party. Both the 16 year old and the 15 year old admit that they had sex, and they say it was consensual.

The age of consent is the age at which the law says a person has the legal ability to consent to sex. If a person is under that age, then the person cannot legally consent, and anyone having sex with them is guilty of statutory rape. That is, rape as defined by the law (or statute). The age of consent in the state where this took place is 16.

In the second case, a 17 year old was charged with having sex with a different 15 year old at the same party. The prosecutor offered both defendants a deal, where they would admit to guilt, and go to jail for 1 year, and register as a sex offender for 10 years. If they didn't take this deal they would go to trial, and the punishment for statutory rape is up to 20 years in jail."

The 4 handouts are Witness Roles, Sworn Affidavits, Judges Panel, and Legal Teams. Distribute the roles and let the discuss the case details in these groups:

- 2-4 students on the Prosecution Team - Team gets all 4 handouts
- 2-4 students on the Defense Team - Team gets all 4 handouts
- 1 student for each of the 4 witness roles - Each get only their own parts
- 2-3 students as the Court Officers - Team gets only the Sworn Affidavits
- All remaining students can be on the Judges Panel - Team gets only the Judges Panel -Court Schedule

Also distribute the "Federal Laws" handouts so students can review which laws are applicable to their court case. If you'd like to review and provide guidance on laws in your own state, visit RAINN's State Law generator:

https://apps.rainn.org/policy/?&_ga=2.170931744.1272530949.1653330744-835502674.1650918883#report-generator

As they work in their groups, walk around the room and listen to their conversations, answering questions or contributing guidance as necessary. (10 minutes)

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STEP 3: Have the panel of judges sit at the front of the room. Let them proceed according to the schedule. The judges will ask the Prosecuting Attorney to go first, present the case, and then have the Defense Attorney respond. Have them call on other witnesses as outlined in their instructions. Tell them that each person will have no more than 2 minutes to make their case. (25 minutes)

STEP 4: After everyone has spoken, the judge will share their collective verdict with the class. Once the verdict has been shared, thank the class for their work, and ask everyone to return to their original seats.

Process the experience by asking the following questions:

- What was it like to do that? What was [insert student responses] about it?
- [Have students look up their state's age of consent laws at: www.ageofconsent.net/states]
- What is the age of consent in this state?
- Is there a close-in-age exception? [sometimes known as a Romeo and Juliet Law]
- Would this scenario have been a crime in this state? Why or why not?
- This story is about statutory rape – although they both said they wanted to have sex, the law says that a person under the age of 16 is too young to have sex. What do you think? At what age do you think a person is capable of knowing whether they're ready to have sex? Why?
- Remember that a person was taking a video of these sexual behaviors occurring. What is the age of consent for being in a sexually explicit video, such as the one in this scenario? Should the person taking the video have been charged with a crime? What about anyone else regarding the video? [Note: The age of consent for this is 18 in all states - child pornography is a federal crime]
- What did you notice about what different people used to make their arguments? Do you think those were valid points? Where do you think those ideas came from?
- If drugs or alcohol were involved, how does that change the consent scenario?
- If the gender of the people had been different, would the outcome have been different? What about if they were the same gender? Why or why not?

End the class by suggesting the students keep talking about the scenario and that they talk about it at home to see what their other family members think and what they would say. Distribute the resource sheet.

Say, "No matter the circumstances, if someone has been raped or sexually assaulted, it is never their fault. If you or someone you know has experienced any kind of rape or sexual assault, including statutory rape, or if you're even not sure whether what happened was an assault, please contact any of the organizations listed on this sheet." (10 minutes)

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RECOMMENDED ASSESSMENT OF LEARNING OBJECTIVES AT CONCLUSION OF LESSON:

The experience of the mock court, and in particular, the processing discussion that follows, will achieve both learning objectives.

HOMEWORK:

None.

Judges Panel

One of the judges should keep this schedule and let the prosecution, defense and officers of the court know when they should speak.

Judges: Your job is to listen to everyone in the trial and come to a decision. After the trial is over you should talk among yourselves. The only things you need to decide are: Was this statutory rape according to the law, and if a law was broken, what punishment should the defendant receive.

Court Schedule

1. Prosecution opening statement, then prosecution team can call these witnesses:
 - Defendant #1 - Officer of the court reads Affidavit #1
 - Defendant #2 - Officer of the court reads Affidavit #2
 - Alleged victim's friend
 - Person who took the video
2. Defense opening statement, then defense team can call these witnesses:
 - Alleged victim - Officer of the Court reads statement
 - Defendant's friend
 - Football coach
3. Prosecution closing remarks
4. Defense closing remarks
5. Judges panel discusses and gives Defendant #2 verdict and sentence

Officers of the Court - Sworn Affidavits

The defendants and alleged victims in this case have asked not to appear in court to protect their privacy and have instead given their testimony. The court officers should decide among themselves who will read which affidavit.

OFFICER OF THE COURT #1 - DEFENDENT #1 AFFIDAVIT

“This affidavit was sworn under oath by Defendant #1. Defendant #1 testified that they did go to the party, that they are 17 years old, that they did have sex with a person that they knew to be 15. The District Attorney has offered a plea deal, in which Defendant #1 admits guilt, is sentenced to 1 year in jail, and is required to register as a sex offender, in any state that they live, for 10 years. Defendant #1 accepts the deal and pleads guilty.”

OFFICER OF THE COURT #2 - DEFENDENT #2 AFFIDAVIT

“This affidavit was sworn under oath by Defendant #2. He testified that he went to a party following the last football game of the year. At this party, some underage people were drinking, a few people were making out, and someone there was videoing everything on their phone. He saw someone that he knew, they began talking, joking around, then started kissing, and then she started giving him a blowjob. He testified that it felt strange to be doing this in the same room as everyone else, but he thought he would just go with it. He liked the girl, knew this person from school, knew that she was in a lower grade, but he wasn't sure what grade she was in. He stayed at the party until it ended and then left with friends. He didn't hear anything more about it until he was contacted by the police.

OFFICER OF THE COURT #3 - ALLEGED VICTIM AFFIDAVIT

“This affidavit was sworn under oath by the alleged victim. She testified that she is 15 years old. She testified that she went to the party with a friend. As it got later, a lot of people started making out and engaging in other sexual behaviors right there in the same room. She saw the defendant who she kind of knew and had talked to at school. They were having fun talking and laughing, and because it seemed like the thing to do at the time she started kissing him. It was really fun, she didn't feel any pressure from him to do more, and eventually she decided that she wanted to do more with him, so she gave him oral sex. She was not aware that it was being recorded. Afterwards it felt a bit awkward, but it was fine. She was later told that someone had been videoing the whole thing, and she found him and made him promise that he would not post that video anywhere or otherwise try to embarrass her. He promised that he would not do that. She left the party a few hours later with the same people she came with, and didn't really think about it until she was contacted by the police. The alleged victim claims that she is not a victim, that the sex was consensual and she does not want to testify against Defendant #2.”

Legal Teams

Each legal team should be 2-4 students and they get their roles plus all the witness roles

DISTRICT ATTORNEY TEAM (PROSECUTION)

The age of consent in this state is 16 and the victim is under that age. This is clearly statutory rape. You negotiated a plea deal with the defense attorneys where the alleged perpetrators would spend a year in jail and only have to register as a sex offender for 10 years. One defendant has already taken the plea deal, and so you feel like you cannot back down. You want Defendant #2 to admit guilt and take a plea deal for one year in prison and register as a sex offender, otherwise you have no choice but to go forward with a trial.

DEFENSE ATTORNEY TEAM

You know that all of the evidence points to this being consensual sex, and you believe that this should be dealt with privately. However you also know that the age of consent is 16, and that because of the ages of the two people involved, the law defines what happened as statutory rape. One way around this is to convince the judges that no crime occurred, which might be difficult here. The other way around this is to convince the district attorney not to prosecute. You believe that the district attorney is being stubborn and standing on principle, sacrificing the future of a student who has a bright future. The district attorney offered the plea deal and one of the defendants took it, but you think that they could continue to negotiate for a better deal for Defendant #2, who you are defending.

Witness Roles

Each witness gets just their own part. The 4 witnesses should plan in a group together so that they can practice their roles

DEFENDANT'S FRIEND:

You have been friends with the defendant since you were in elementary school, and know that he would never do anything to hurt someone else. In fact, you know him as actually somewhat shy, especially around girls, and are actually somewhat surprised that he had sex at a party when others were present, let alone on video.

DEFENDANT'S FOOTBALL COACH AND MENTOR

Defendant #2 is on your team. You think that he is a good kid and a talented football player, who has gotten a scholarship to attend college next year. You know that one year in jail and registration would ruin his prospects for playing football in college and possibly professionally. You believe that this is something that should be dealt with by the school, and not in the courts.

VIDEOGRAPHER

You took videos at a party that took place in a hotel room. There were several instances of folks having sex and of course you got all of that on video. Obviously you know better than to post it anywhere, especially when you found out that some of the people were underage. You kind of knew that it wasn't a good idea but did not erase it and then the police came to your house, took your phone, and downloaded the video as evidence.

ALLEGED VICTIM'S FRIEND

You have been friends with her since elementary school, and have always believed that she was super responsible. You're surprised this happened, and believe that she got swept up in the moment and carried away. You also think that the older students should have known better. You think that a year in jail and sex offender registration is harsh, but you think there should be some consequence for behavior that you believe was abusive and took advantage of your friend.

DEFENDANT'S PARENT

Your son is a really good guy, you have raised him to be respectful to others. You know that both your son and the girl he had intercourse with at the party consented to the behavior, so you're not sure why he is being charged with statutory rape. It's not like the behavior was aggressive or violent in any way.

Summary of Federal Sex Offense Laws

Each state has its own sexual offense laws, and so does the federal government, which are laws that govern the entire nation. Although sexual offense cases often happen at the state level, if they are severe enough, or cross state lines, they can also become federal cases, and the federal laws apply. Below is a summary of the federal sex offense laws.

If you would like more information on state laws, visit RAINN's State Law Database:

https://apps.rainn.org/policy/?&_ga=2.83687446.1272530949.1653330744-835502674.1650918883#report-generator

US, Title 18, Part 1 Chapter 109A – Sexual Abuse

- A person cannot cause another person to engage in a sexual act by force or by threatening or placing a person in fear that any person will be subjected to death, injury, or kidnapping.
- A person cannot engage in a sexual act with a person after rendering them unconscious.
- A person cannot give a person by force or threat of force a drug or substance and substantially impair a person's ability to consent and tries to or does engage in a sexual act with them.
- A person cannot cross a state line with intent to engage in a sexual act with a person who is under 12.
- A person cannot engage in a sex act with a person between ages 12 and 15 and the victim is at least four years younger than the assailant.
- A person cannot engage in a sexual act with another person if that other person is incapable of appraising the nature of the conduct; or physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act.
- A person cannot knowingly engage in a sexual act with another person who is in official detention, and under the custodial, supervisory, or disciplinary authority of the victim.
- A person cannot knowingly engage in sexual contact with another person without that person's permission.
- A person cannot employ, persuade, entice or coerce a minor to engage in sexually explicit conduct for the purpose of producing visual depiction of the conduct. And, a person cannot distribute print or electronic copies of this media.

Resources: Sexual Assault

If you or someone you know needs information about rape (including statutory rape), sexual abuse or sexual assault, the following resources may be of use:

National Sexual Violence Resource Center

www.nsvrc.org

National Teen Dating Abuse Helpline

www.loveisrespect.org

866-331-9474

RAINN – Rape, Abuse and Incest National Network

www.rainn.org

800-656-HOPE (4673)

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