



Understanding the Confrontation Clause

In this lesson, students will explore the fundamental reasons for the confrontation clause of the Sixth Amendment. Students will engage in a simulation, identify the history and evolution of the confrontation clause from the Annenberg Classroom video *The Confrontation Clause: Crawford v. Washington*, then apply this knowledge to the simulation.

Objectives:

- Identify, explain and apply the confrontation clause of the Sixth Amendment
- Evaluate the fairness in the handling of a conflict using the principles undergirding the confrontation clause
- Analyze how common law has (re)shaped the meaning of the confrontation clause

Standards:

PA 5.1.9.C. Principles and Documents of Government: Analyze the principles and ideals that shape United States government

PA 5.1.C.E Analyze and assess the rights of people as written in the PA Constitution and the US Constitution.

PA 5.1.6.D Explain the basic principles and ideals within documents and the roles played by the framers as found in significant documents.

PA 5.3.12.F Analyze landmark United States Supreme Court interpretations of the Constitution and its Amendments

PA 8.3.8.B United States History: Evaluate the importance of historical documents, artifacts and places critical to United States history.

Activities:

Using **Handout 1**, have students read and respond in small groups to this case study.

- Charlie and Rhonda get into a shoving match over an argument that started on social media. Rhonda trips during the struggle, hurting her arm. Rhonda goes to the nurse and is forced to explain what happened. “Charlie started a fight with me and then pushed me to the ground,” she explains. Since fighting is a violation of school rules, the nurse calls in the dean of students (disciplinarian) to hear the story. Rhonda gives the dean the same explanation. The dean decides to give Charlie a week of detentions and warns Rhonda to stay away from Charlie from now on. Is this fair? Why or why not? Discuss this case and the question in small groups or pairs. What questions does this scenario raise about assigning guilt?
- Once students finish talking, the teacher should hold a full-class discussion using the simulation prompts. Record students’ responses on the classroom board or chart paper, separating answers into yes-no-question categories.
 - Was the dean fair? Why or why not? What questions does this scenario raise about assigning guilt?
- The following questions might help further explore students’ thinking during full-class discussion.
 - What evidence was presented to the nurse/dean?
 - What might make testimony against Charlie lose credibility?
 - If Charlie was asked about the situation, what might he say?
 - How might the dean fairly approach this case?
- If appropriate, the teacher can extend the conversation by asking students to discuss if they have ever been accused of something they either did or did not do or if an accusation against them was not entirely accurate. Did they get a chance to challenge what the accuser said, and thus, confront the accuser? Why is that important?

To deepen students’ understanding of how the dean’s handling of Charlie’s and Rhonda’s case might have been unfair, students are going to learn about the

confrontation clause. Afterward, have students return to this case and discuss what would be a fairer, or constitutional, way for the dean to handle this issue.

- First, have students view the Annenberg Classroom video *The Confrontation Clause Crawford v. Washington* and answer the following questions from **Handout 2**:
 - What is the confrontation clause? What does it mean? Why is it important?
 - How did the case of Sir Raleigh influence the Founders when they were writing the Sixth Amendment?
 - What are some exceptions to the confrontation clause?
 - What exception was challenged in *Crawford v. Washington*?
 - What is considered reliable testimony?
 - What is the purpose of cross-examination?
- Once the video is finished, have students share their answers to the entire class.
- For additional text and audio/visual support materials, have students read the Sixth Amendment.
 - The Sixth Amendment and explanation of its clauses/language can be found here: <http://www.annenbergclassroom.org/page/sixth-amendment>.
 - The *Interactive Guide to the Sixth Amendment* has both the Sixth Amendment and short video clips explaining important language <http://www.annenbergclassroom.org/page/interactive-guide-to-the-sixth-amendment>
- Have students return to small groups and discuss how the confrontation clause might apply to the case of Charlie and Rhonda. After some time, reconvene students and hold a full-class discussion.
 - How might the confrontation clause help us understand why Charlie was treated unfairly by the dean?
- Students should take away from the simulation and subsequent discussions that it would be most fair for Charlie to be able to confront his accuser. Charlie and Rhonda should be able to tell their sides of the story, and the

dean's cross-examinations of these accounts (and others) would help ensure credibility.

The right to confront accusers and examine provided evidence is a foundation of the idea of a fair trial included in the Sixth Amendment of the U.S. Constitution, although it applies only to criminal cases. And although the simulation about Charlie and Rhonda is not at the level of a criminal case, it provides some insight into why the confrontation clause is important, and thus a right in the Sixth Amendment. That is, the accused has a right to confront his/her accuser in court in criminal proceedings in order to challenge falsehoods, misunderstandings, and/or incomplete understandings of the event under question.

The Sixth Amendment, along with the Fourth and Fifth, helps to provide clear and fair processes when the accused risks losing rights, property and/or freedom. In other words, if someone accuses you of a crime in which your life and liberty are at stake, then you have the right to counsel, offer evidence on your behalf, and examine the evidence others bring against you, among other rights (see Fifth through Eighth Amendments).

One means of examining evidence is to cross-examine (confront) the accusers in order to question the truthfulness of their testimony (evidence presented). Charlie does risk losing freedoms and Rhonda's testimony might not represent the whole truth. For instance, Rhonda might only be representing her side of the story when talking to the nurse/dean. We also do not know how the conflict on social media nor the shoving match started and if Rhonda fell because of Charlie.

If the dean is going to assign guilt and then a consequence, it is important that all relevant facts are known in order to uphold a standard of fairness. Therefore, a fair handling of this case is that the accuser (Rhonda) and defendant (Charlie) have an opportunity to present their sides of the story. The judge, in this case the dean, corroborates each story with other sources of evidence if possible, such as other witnesses or any video, for example, that might provide insight into the incident and credibility of presented facts.

Lesson Extensions:

- Now that students have a foundational understanding of the confrontation clause, students can research other issues related to the confrontation clause

and present findings. How do each of these issues affect the interpretation of the confrontation clause? Students can use this interactive timeline to begin the research process: <http://www.annenbergclassroom.org/timeline/right-to-be-confronted-by-adverse-witnesses>.

Issues:

- Using testimony from another trial
 - Applying confrontation clause to state trials
 - Out-of-court statements
- What deepens the complexity of this process is evaluating the credibility of evidence. Is evidence trustworthy and does it address the issue at hand? Below are resources that can build students' capacities to engage in critical thinking, cross-examinations.
 - The Credibility Challenge lesson plan:
<http://www.annenbergclassroom.org/page/the-credibility-challenge>
 - Tools of the Trade: A Process for Avoiding Deception:
<http://www.annenbergclassroom.org/page/tools-of-the-trade>
 - Series of lessons on critical thinking:
<http://www.annenbergclassroom.org/page/critical-thinking-lesson-plans>

Additional resources to support this lesson:

Our Constitution

This classroom textbook provides the original language and accessible interpretation, historical background, and thematic timelines illustrating the expansion and contraction of important functions and rights of the U.S. Constitution.

Chapter on the Sixth Amendment:

[http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Sixth%20Amendment Our%20Constitution.pdf](http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Sixth%20Amendment%20Our%20Constitution.pdf)

Chapter 12: Right to A Fair Trial

[http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Rights/Chapter 12 Our Rights.pdf](http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Rights/Chapter%2012%20Our%20Rights.pdf)

The full text can be found here:

http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/COMPLETED_Our%20Constitution.pdf

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Handout 1: The Case of Charlie and Rhonda

Charlie and Rhonda get into a shoving match over an argument that started on social media. Rhonda trips during the struggle, hurting her arm. Rhonda goes to the nurse and is forced to explain what happened. "Charlie started a fight with me and then pushed me to the ground," she explains. Since fighting is a violation of school rules, the nurse calls in the dean of students (disciplinarian) to hear the story. Rhonda tells the dean the same things she told the nurse. The dean decides to give Charlie a week of detentions and warns Rhonda to stay away from Charlie from now on. Is this fair? Why or why not? Discuss this case and the question in small groups or pairs. What questions does this scenario raise about assigning guilt?

Is this fair? Why or why not?

What questions does this scenario raise about assigning guilt?

Handout 2: *The Confrontation Clause: Crawford v. Washington*

What is the confrontation clause?

What does it mean?

Why is it important?

How did the case of Sir Raleigh influence the Founders when they were writing the Sixth Amendment?

What are some exceptions to the confrontation clause?

What exception was challenged in *Crawford v. Washington*?

What is considered reliable testimony?

What is the purpose of cross-examination?