

EDUCATING ABOUT IMMIGRATION

Naturalized Citizens and the Presidency

Overview

Students will role play state senators from their home state. Imagine Congress has just passed a joint resolution to amend the U.S. Constitution to allow naturalized citizens to run for president. The terms of the resolution are close to Senator Orrin Hatch's proposal in 2004. The students have the task of deliberating the resolution, coming up with arguments for and against it, and deciding whether to support it. Students have the option of suggesting changes to the resolution.

Time

One to two class periods.

NOTE: It may be helpful to review the process for amending the Constitution with your students before doing this lesson. You can use the following lesson from CRF:

[Do We Need a New Constitutional Convention?](#)

Standards Addressed

National U.S. History Standard 8: Understands the institutions and practices of government created during the Revolution and how these elements were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights. III (1) Understands events that led to and shaped the Constitutional Convention....

National U.S. History Standard 31: Understands economic, social, and cultural developments in the contemporary United States. IV (2) Understands how recent immigration and migration patterns, and demographic shifts, impacted social and political issues.

Common Core State Standards

CCSS.ELA-Literacy.RH.11-12.1

Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

CCSS.ELA-Literacy.RH.11-12.4

Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines *faction* in *Federalist* No. 10).

CCSS.ELA-Literacy.RH.11-12.8

Evaluate an author's premises, claims, and evidence by corroborating or challenging them with other information.

CCSS.ELA-Literacy.RH.11-12.10

By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

CCSS.ELA-Literacy.WHST.11-12.1.a

Introduce precise, knowledgeable claim(s), establish the significance of the claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that logically sequences the claim(s), counterclaims, reasons, and evidence.

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CCSS.ELA-Literacy.WHST.11-12.1.c

Use words, phrases, and clauses as well as varied syntax to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.

CCSS.ELA-Literacy.WHST.11-12.10

Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

California Grades Six Through Eight Historical and Social Science Analysis Skills:

Chronological and Spatial Thinking: (1) Students explain how major events are related to one another in time. **Historical Interpretation:** (3) Students explain the sources of historical continuity and how the combination of ideas and events explains the emergence of new patterns.

California History-Social Science Standard 8.2: Students analyze the political principles underlying the U.S. Constitution and compare the enumerated and implied powers of the federal government. (4) Describe...the role of such leaders as Madison [and] George Washington ...in the writing and ratification of the Constitution.

California History-Social Science Standard 11.1: Students analyze the significant events in the founding of the nation and its attempts to realize the philosophy of government described in the Declaration of Independence. (3) Understand the history of the Constitution after 1787 with emphasis on federal versus state authority and growing democratization.

California History-Social Science Standard 12.2: Students evaluate and take and defend positions on the scope and limits of rights and obligations as democratic citizens, the relationships among them, and how they are secured. (6) Explain how one becomes a citizen of the United States, including the process of naturalization (e.g., literacy, language, and other requirements).

California History-Social Science Standard 12.4: Students analyze the unique roles and responsibilities of the three branches of government as established by the U.S. Constitution. (2) Explain the process through which the Constitution can be amended. (4) Discuss Article II of the Constitution as it relates to the executive branch, including eligibility for office and length of term, election to and removal from office, the oath of office, and the enumerated executive powers.

California History-Social Science Standard 12.7: Students analyze and compare the powers and procedures of the national, state, tribal, and local governments. (5) Explain how public policy is formed, including the setting of the public agenda and implementation of it through regulations and executive orders.

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Materials

- A class set of “The Path to Citizenship,” from the Educating About Immigration website.
- A class set of the article “Naturalized Citizens and the Presidency”
- A class set of Handout A
- A class set of Handout B

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Procedure

Step One. Focus Discussion: Distribute “The Path to Citizenship.” Ask students to review it and then hold a brief discussion by asking: Do you think the path to citizenship is too strict, not strict enough, or just right? Why or why not? (Accept all reasonable responses.)

Step Two. Have the students read “Naturalized Citizens and the Presidency” and answer the questions for discussion. They can read it in class or as homework. Check for understanding.

Step Three. Organize the class into small groups of three or five students each. Distribute Handouts A and B to each student. Each group must select a Chairperson to lead the deliberation and a Recorder to report back to class.

Step Four. Explain that Congress has just passed a joint resolution to amend the Constitution to allow naturalized citizens to run for president. Tell the groups that each is a committee of state senators.

Review with students the instructions the two handouts. Answer any questions that students may have. Give them time to complete their tasks.

Step Five. Once all the groups are done, have each Recorder report its group’s decisions to the class. Keep a tally of the decisions on the board.

Step Six. Debrief with the students. Did any group simply want to eliminate the 20-year period for citizenship? If so, why? For groups that decided on new terms, what made those groups think the new terms were fair? If Congress were to pass such a resolution as you see in this lesson, do you think the American people would support it? Would immigrant groups support it? Would you, as an individual, support it? Why or why not?

Additional Debriefing Questions: Was it difficult for the groups to deliberate? Why or why not? Could consensus be reached for new terms? If not, why not? In your opinion, what worked well in reaching decisions in your group?

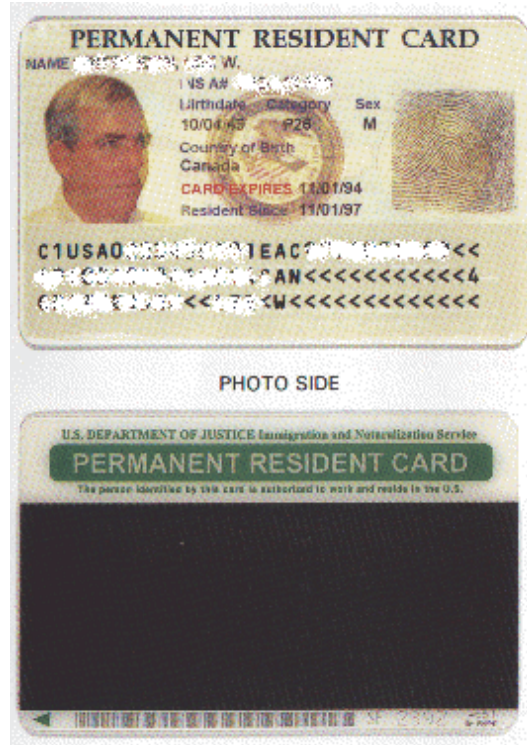
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The “Green Card”: The Path to Citizenship

The so-called "green card" is an identification card that shows an immigrant holds the status of a lawful permanent resident (LPR). The card used to be printed on green paper. It is no longer printed on green paper, but the name has remained. To get a green card, a person must apply. U.S. law sets five areas of preferences for granting green cards:

1. Family-sponsored preferences for those related to U.S. citizens.
2. Employment preferences for those who have needed job skills.
3. Diversity immigration for those who come from countries with low rates of U.S. immigration.
4. Refugees admitted to the United States.
5. Those already granted political asylum.



Lawful permanent residents are authorized to reside and work in the United States and travel abroad. Generally, after living for five years in the United States, an LPR may apply to become a U.S. citizen. Some LPRs need not wait five years. The spouse of a U.S. citizen may apply after three years, and a person seeking political asylum may apply after four years. Additional requirements for naturalized citizenship include:

1. Physical presence in the United States for a specified period.
2. A good moral character.
3. Being able to read, write, speak, and understand ordinary English.
4. Being at least 18 years of age.
5. Passing a citizenship test.

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The U.S. Constitution requires that a candidate for president or vice president must have been born in the United States or otherwise a “natural born citizen.” Controversies have arisen in U.S. history from time to time as to who is “natural born” and therefore eligible to be president. Furthermore, with so many foreign-born citizens living in the United States, many people believe this constitutional requirement itself should be changed.

In 1787, the Constitutional Convention in Philadelphia wrote the U.S. Constitution and established the eligibility requirements of the Office of the Presidency. [Article II, Section 1](#) makes clear that to be president, a person must be at least 35 years old and have lived in the U.S. for at least 14 years. Importantly, the delegates to the Philadelphia Convention added a clause requiring that the president be a “natural born citizen.” The natural-born citizen clause has been traditionally interpreted to allow only those who were born within the United States to be president. It states, “No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President”

Where Does the Term “Natural Born Citizen” Come From?

The term “natural born citizen” has origins in English common law, or the law as understood from the courts in England. In his authoritative *Commentaries on the Laws of England* (1765), William Blackstone wrote, “Natural-born subjects are . . . born within the dominions of the crown of England, that is, within . . . the allegiance of the king; and aliens . . . are born out of it.” Allegiance of this kind he called “natural allegiance,” because “every man owes natural allegiance where he is born.”

Blackstone also provided a definition of “naturalization.” A person who is not a natural-born subject (citizen) of the king could be *naturalized*, and therefore made a citizen, by an act of Parliament. A naturalized subject was “in exactly the same state as if he had been born in the king’s [allegiance]; except only that he is incapable . . . of being a member of the privy council [or king’s advisers], or parliament”

The earliest known reference to the term “natural-born citizen” in the United States comes from John Jay, the man who would become the nation’s first chief justice. When he was secretary of foreign affairs in 1787, he wrote a letter to George Washington, who presided over the Constitutional Convention in Philadelphia. In this letter, Jay suggested that “the

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Commander in Chief of the American army shall not be given to nor devolve on, any but a natural born Citizen.” Jay believed that a foreign-born president was too risky for the nation.

Jay’s proposal became a qualification for anyone considering a run for the presidency. The Constitutional Convention did not debate the subject. Some did propose a stricter requirement, which would have meant that the president, vice president, senators, and representatives all have to be natural-born citizens, but the Constitution was ratified without that strict language.

One exception does allow naturalized citizens to be president, but the exception excludes anyone living today. The Constitution allows anyone who had been naturalized by the time of the Constitution’s adoption to be president. That exception is obviously no longer relevant to any presidential candidate in the 21st century.

What Does “Natural Born” Mean?

Constitutional scholars are in agreement about what a naturalized citizen is. It means a person who gains citizenship at some point after he or she is born by fulfilling certain legal requirements. There is some disagreement, however, about what a natural-born citizen is.

The text of the Constitution itself offers no definition for the term “natural born citizen,” and the Supreme Court has never decided exactly what the term means. Harvard Law Professor Laurence Tribe notes, therefore, that the definition of the term natural-born citizen is “murky and unsettled.”

Nonetheless, a majority of scholars read the natural-born citizen clause broadly. They understand that persons born on U.S. soil or within U.S. jurisdiction (geographical governance) are natural-born citizens, as are persons born on foreign soil to two citizen-parents. But they also argue that natural-born citizens can be persons born on foreign soil to at least one parent who is a U.S. citizen, as long as that parent previously lived in the United States. These scholars argue that throughout U.S. history, Congress has consistently passed laws defining citizenship-at-birth this way.

For example, these scholars cite the Naturalization Act of 1790, which provides that “the children of citizens of the United States, that may be born . . . out of the limits of the United states, shall be considered as natural born citizens . . .” The only limitation was that the child’s father must have resided within the United States at some point.

Today, [Section 1401](#) of Title 8 in the U.S. Code similarly defines what “citizen at birth” means. It says that “nationals and citizens of the United States at birth” include “a person born in the United States, and subject to the jurisdiction thereof . . .” In addition, anyone born outside the U.S. but who has at least one citizen-parent who has lived in the United States for more than five years is also a U.S. citizen at birth.

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Other scholars read the natural-born citizen clause more narrowly, arguing that *only* persons born within the borders or within the jurisdiction of the United States are natural born citizens. All other citizens are naturalized. These scholars generally define the term according to English common law (as in Blackstone's *Commentaries*, where natural-born citizenship was determined by the "dominion" in which someone was born).

Before the [14th Amendment](#) was ratified in 1868, they argue, even a person born to immigrant parents on U.S. soil was not considered a citizen-at-birth. The amendment changed that understanding, stating "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Supporters of the narrow definition argue that this only shows that persons born or naturalized "in the United States" (or its jurisdiction) are citizens.

Supporters of the narrow definition also argue that a "citizen at birth" is not a synonym for "natural-born citizen." If it was, then the laws would have said so. In 1795, Congress passed a new Naturalization Act that replaced the 1790 statute and removed language about natural-born citizens. The label "natural-born" never again appeared in a U.S. naturalization statute. Citizens at birth, therefore, may be "naturalized at birth" or gain citizenship by descent (from their parents), but they are not "natural born citizens."



When Arnold Schwarzenegger became California's governor in 2003, some of his supporters wanted to amend the U.S. Constitution so he could run for president.

In some presidential election years, the natural-born citizenship of candidates has been challenged. Republican Senator Barry Goldwater of Arizona ran for president in 1964, but he had been born in Arizona when it was still a U.S. territory (and not a state). Similarly, Republican Senator John McCain of Arizona ran for president in 2008, but he had been born in the Panama Canal Zone (a U.S. territory from 1903 to 1979). Neither Goldwater nor McCain, however, were disqualified from running for president. In McCain's case, the Senate voted unanimously that he was eligible to run for president.

Naturalized Citizens for President?

Over the years, some politicians have advocated changing or eliminating the natural-born citizen clause itself. They tend to see it as an anachronism (a throw-back to a previous era). [John Yinger](#), a professor of economics and public administration at Syracuse University, has challenged the clause as being simply "no longer relevant" because the "Founder Fathers included the natural-born-citizen clause so no foreign prince could buy his way into the presidency." Beyond that, Yinger argues, the clause contradicts the basic American principle that "All citizens should have equal rights."

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The only way to alter the Constitution would be through the amendment process. In July 2003, Senator Orrin Hatch (R-Utah) introduced the Equal Opportunity to Govern Amendment. It would have terminated the requirement that a person must be born in the U.S. to become president or vice president. The amendment would have allowed naturalized citizens the opportunity to serve as the head of state, provided that they had lived in the country for at least 20 years and fulfilled the other requirements. In support of this amendment, Senator Hatch [spoke](#) on the Senate floor:

Ours is a nation of immigrants. The history of the United States is replete with scores of great and patriotic Americans whose dedication to this country is beyond reproach, but who happen to have been born outside of Her borders.... More than 700 recipients of the Congressional Medal of Honor—our Nation’s highest decoration for valor—have been immigrants. But no matter how great their sacrifice, leadership, or love for this country, they remain ineligible to be a candidate for President. This amendment would remove this unfounded inequity.

Since the 1870s, 26 similar amendments have been proposed in Congress to change or eliminate the natural-born citizen clause; all have failed in subcommittees. Hatch’s proposal met the same fate.

The reason is that many people want to keep the clause. They argue that the founders had good reason to include it. There was widespread caution throughout the United States at the time of the Constitutional Convention about the new government becoming a hereditary monarchy. Some feared that delegates to the Convention wanted either Prince Henry of Prussia or the Frederick the Duke of York, the second son of King George III of England, to be the new monarch for America. John Jay feared a monarchy when he wrote his letter to Washington.

Today, the fear of monarchy is gone. But in the aftermath of the September 11, 2001 terrorist attacks, the fear of an assault from a foreign entity exists. One task of the president of the United States is to be commander in chief of its armed forces. According to Matthew Spalding of the [Heritage Foundation](#), a conservative think tank, naturalized citizens as president may have reservations about using the military against the country of their birth. He has warned that:

The presidency is unique: One person makes crucial decisions, many having to do with foreign policy and national security. With a single executive, there are no checks to override the possibility of foreign intrigue or influence, or mitigate any lingering favoritism for one’s native homeland.

If the U.S. ever allows naturalized citizens to run for president, a constitutional amendment will have to be passed. No such amendment is on the immediate horizon.

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Discussion and Writing

1. What are the reasons the U.S. Constitution includes the “natural-born citizen” clause? Do you agree with the clause? Why or why not?
2. What language in Blackstone’s *Commentaries* would support the argument that only a person born within the United States or within U.S. jurisdiction can be defined as a natural-born citizen? Why?
3. Do you agree with the broad or the narrow interpretation of the natural-born citizen clause described in the article? Why?
4. Do you think the 20-year requirement in Sen. Orrin Hatch’s “Equal Right to Govern” Amendment is fair?

Sources

Bomboy, Scott. “Latest CRS Report Discusses Presidential Birthplace Issue.” *Constitution Daily*. National Constitution Center (January 25, 2016). URL: blog.constitutioncenter.org

“Equal Opportunity to Govern Campaign.” *Equal Opportunity to Govern Campaign*. Web. URL: eotg.org

Houghton, David. “President Must Be Natural-Born Citizen — But what Is That?” UCF forum, August 29, 2012. URL: today.ucf.edu

Katyal, Neal, and Paul Clement. “On the Meaning of ‘Natural Born Citizen’.” *Harvard Law Review Forum* (March 11, 2015). URL: harvardlawreview.org

McManamon, Mary Brigid. “Ted Cruz is not eligible to be president.” *Washington Post* (January 12, 2016). URL: washingtonpost.com/opinions

Salvato, Nancy. “What Is a ‘Natural Born Citizen?’ ” *World and I* (June 2009).

Spangler, Jerry. “Hatch is pushing Arnold bill.” *Deseret News* (October 7, 2004). URL: deseretnews.com

Tager, Michael. “The Contemporary Presidency: Constitutional Reform and the Presidency: The Recent Effort to Repeal the Natural-Born Citizen Requirement.” *Presidential Studies Quarterly* 39.1 (2009).

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Naturalization Amendment—Handout A

Imagine Congress has passed a joint resolution to propose a new amendment to the Constitution. The proposed amendment allows naturalized citizens to run for president. The proposal has been sent to the state legislatures for them to decide whether to ratify it or not. Here is the proposed amendment:

A U.S. citizen, who has been a U.S. citizen for at least 20 years and who is otherwise eligible to the Office of President under Article II, Section 1, of this Constitution, is not ineligible to that Office by reason of not being a natural born citizen of the United States.

You are a committee of senators in your state's legislature. Your committee will meet to decide whether to recommend supporting this proposed amendment. Follow these steps:

Prepare. Write down the terms of the proposed amendment in your own words in the space below. Then write down an argument for and an argument against the proposal.

Deliberate. Use the *Rules for Civil Conversation* to deliberate on the proposed amendment. Each person should be able to share his or her arguments for and against the amendment.

Recommend. If members of your committee have ideas for changing the proposal, they can share that with the group, too. Write those changes on Handout B.

Decide. After all senators have had a chance to speak, take a vote to decide whether your committee will accept or reject the proposed amendment. Perhaps your group will only accept it with suggested new changes. If so, make a note of that in your report back to the class.

Report. The group's Recorder needs to be prepared to share your group's decision with the rest of the class. Write down your group's results on Handout B. Be sure to also prepare reasons why your group decided to vote that way.

Rules for Civil Conversation

1. Read the text as if it were written by someone you really respected.
2. Everyone in the conversation group should participate in the conversation.
3. Listen carefully to what others are saying.
4. Ask clarifying questions if you do not understand a point raised.
5. Be respectful of what others are saying.
6. Refer to the text to support your ideas.
7. Focus on ideas, not personalities.

What are the terms of the proposed amendment in your own words?

Argument(s) For	Argument(s) Against

Use the back of this sheet if necessary.

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Naturalization Amendment—Handout B

1. What, in your opinion, is the **best** argument for **accepting** the proposed amendment?
2. What, in your opinion, is the **best** argument for **rejecting** the proposed amendment?
3. Take a vote on the proposed amendment. Tally the vote.

Votes for the Amendment	Votes Against the Amendment	Were any suggested changes included into the decision?
		Circle one: Yes / No

Reasons for your group's decision:

Use the back of this sheet if necessary.

SUGGESTED CHANGES?

1. Have you or anyone in your group suggested changes to the proposal? _____
2. If so, what is the suggested change?

3. What is the reason for the suggested change?

4. Is there a consensus in your group supporting the suggested change? _____
5. Why or why not?

Use the back of this sheet if necessary.