

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:

Students will be able to:

PS.12.CC.2 – Analyze the laws related to bullying, sexual harassment, sexual abuse, sexual assault, incest, rape and dating violence.

PS.12.INF.2 – Analyze the external influences and societal messages that impact attitudes about bullying, sexual harassment, sexual abuse, sexual assault, incest, rape and dating violence.

TARGET GRADE: Grade 12

TIME: 50 Minutes

MATERIALS NEEDED:

- White board and markers
- “Senior Send-Off Story” handout (one per student)
- “Mock Court Roles” handout (one copy cut into strips)
- “Rape and Sexual Assault Resources” handout (one half-sheet per student)
- “Student Support” bookmarks and cards (one per student)
- “California Minor Consent Laws Cards” (one per student)

ADVANCE PREPARATION FOR LESSON:

- Make one copy of the “Mock Court Roles” and cut them into individual strips, for a total of 10 strips of paper with a different role on each.
- Make copies of the “Rape and Sexual Assault Resources” handout and cut the sheets in half so that each student will receive a half-sheet.

LEARNING OBJECTIVES:

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

1. Identify their own feelings about a specific type of law relating to “Unlawful Sexual Intercourse with a minor.” [Affective]
2. Describe at least two messages about sexual consent, abuse, age and gender, and the source(s) of those messages. [Knowledge]

A NOTE ABOUT LANGUAGE:

Language is important and we’ve intentionally been very careful about our language throughout this curriculum. You may notice language throughout the curriculum that seems less familiar—using the pronoun “they” instead of “her” or “him,” using gender neutral names in scenarios and role-plays and referring to “someone with a vulva” vs. a girl or woman. This is intended to make the curriculum inclusive of all genders and gender identities. You will need to determine for yourself how much and how often you can do this in your own school and classroom and should make adjustments accordingly.

PROCEDURE:

Note to the Teacher: *This lesson addresses an accusation of “Unlawful Sexual Intercourse” between minors. Although the description of what happens between the two people is not very graphic, you may want to give students a warning about the topic at the beginning of class and watch your students’ reactions so you can follow up with any students who seem to be triggered by what is discussed.*

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 rights. Yet there are some aspects of sex and sexuality that society has created laws about. Can you think of any examples?” Probe for laws about sexual assault, abortion, being naked or having sex in public.

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

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Tell students that in California, Unlawful Sexual Intercourse is defined as sexual intercourse between a minor who is 17 or younger and a defendant of any age (CA Penal Code 261.5). Explain that unless force or coercion is involved, sexual intercourse between minors is typically not prosecuted; otherwise, 50% of San Diego Unified seniors would be in lawsuits right now! (2017 YRBS data shows that 49.9% of 12th grade students reported having had sexual intercourse.)

Distribute the “*Senior Send-Off Story*” handout to each student. Ask for volunteers to read aloud parts of the handout. Once the entire handout has been read, say, “**I’m guessing you all have some reactions to this story! You’re going to get a chance to talk about it—but you’re going to have to do it in character.**” (5 minutes)

STEP 2: Explain that you are going to divide the class into 10 small groups. Each small group will be representing one person in the story. Tell them that you are going to give them 15 minutes to prepare how they plan to play their role, which will be provided to them.

Divide the class into 10 groups, and distribute a different “*Mock Court Role*” to each group. As they work in their groups, walk around the room and listen to their conversations, answering questions or contributing guidance as necessary. (17 minutes)

STEP 3: Once 15 minutes are up, tell the class that, although they worked on their roles as a group, they need to decide who will be the speaker to represent their group. Tell them that the other people in the group will be able to speak as well but that someone has to start.

Then tell the groups where they should position themselves. What this looks like will depend on your classroom, but one suggestion is as follows:

| | | |
|--|-------|-----------------------------------|
| | Judge | |
| 17-Year-Old Senior | | First-Year Student |
| Defense Attorney | | Prosecuting Attorney |
| Senior’s Parents | | First-Year Student’s Parents |
| Senior’s Close Friend | | First-Year Student’s Close Friend |
| Senior Class President and Council Members | | |

Ask the Prosecuting Attorney to go first, present the case, and then have the Defense Attorney respond. Have the Judge 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. (17 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?**

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- **This story is about what CA law calls "unlawful sexual intercourse" with a minor—although both people said they wanted to have sex, the law says that technically both students are too young to agree or consent to have sex since they are both still legally minors. Do you agree? Should this be considered rape, i.e., non-consensual sex? At what age do you think a person is capable of knowing whether they're ready to have sex? Why?**
- **Did the senior student have the right to have sex with the younger student? What was the first-year student's rights in this situation?**
- **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?**
- **You'll notice that none of the roles was assigned a gender—how did you decide in your groups what gender your character was? What kind of impact would gender have? If the gender of the first-year student had been different, would anyone have played their role differently? How about the senior? What about if they were the same sex? Why or why not?**
- **What responsibility did each of the characters have in this story? For example, should the Senior Class Council members have done anything differently?**

Suggest that the students keep talking about the scenario and that they talk about it at home to see what their other family members think. Distribute the *"Rape and Sexual Assault Resources"* half-sheet and 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, or if you're not sure whether what happened was an assault, please contact any of the organizations listed on this sheet."**

Explain that you are also going to distribute two additional resource cards. Distribute the *Student Support* and *California Minor Consent Laws* cards, saying, **"The Student Support card has a website address on it (www.sandiegounified.org/Support), which contains reliable and medically accurate websites for youth. The websites range from information on local sexual health clinics and services, to sexuality and relationship information, to alcohol and drug services, to LGBTQ supports. Please explore this website further on your own and refer to these resources whenever you need them."**

Referring to the *California Minor Consent Laws* card, say, **"In California, any student of any age may legally and confidentially obtain pregnancy services, including testing, birth control, condoms, pre-natal care, and abortion, without notifying or getting parent permission if you do not wish to. Also, minors 12 years and older may also consent to their own STI and HIV testing and treatment, including the HPV vaccine and PrEP medication for HIV prevention, as well as access confidential services for sexual assault. Students may also leave school during school hours to attend an appointment for any of these reasons. If a student wishes to pursue this option, please talk with your school nurse or counselor. You may also request free and confidential condoms from your School Nurse."** Remind students to talk with a parent, caregiver, or trusted adult if possible if they need any of these services; however, if they need to seek care without telling their parent/guardian they are legally able to do so. Also let students know about any optional brochures available for them to take. (3 minutes)

RECOMMENDED ASSESSMENT OF LEARNING OBJECTIVES AT CONCLUSION OF LESSON:

The experience of the mock court, the processing discussion that follows, will achieve Learning Objectives 1 and 2.

HOMEWORK:

None.

Senior Send-Off Story

A 17-year-old high school senior with an excellent GPA has already been accepted to college. They are liked by everyone at school, both students and teachers. They have a good relationship with their parents and are an active member of their faith community. They tutor students who need it and volunteer at the animal shelter in town.

An unofficial tradition at their school is something called “Senior Send-Off,” in which graduating seniors compete to see who can have sex with the youngest student they can find at the same school. This tradition is not sanctioned by the school, although considering some of the graduates work as staff at the school, it’s possible that some know about it and simply look the other way.

The 17-year-old student has been helping a first-year student with their homework. That first-year student seems to look up to—perhaps even like?—the 17-year-old. The 17-year-old decides to try something sexual, just a kiss, and the first-year responds positively. They make out for a while and end up having sex. They are both happy afterwards but for different reasons.

When it is over, the 17-year-old smiles and says, “Just out of curiosity, how old are you?” The first-year student says, “I’m 14, why?” The 17-year-old says, “Well, thanks to you, I may have just won a contest,” and tells them about the Senior Send-Off and that they need to be able to tell the Senior Class Council how old they are.

The first-year student is confused and then furious. “Wait—you’re saying this is only a game? I thought you were interested in me.” The 17-year-old, so excited by the idea of winning the competition, is confused—and then realizes that the first-year student really liked them.

The first-year student goes home and their parents notice they’re really upset about something. The first-year student tells their parents what happened. The parents flip out and yell, “But you’re 14!” and call the police. By the end of the day, the 17-year-old has been arrested for Unlawful Sexual Intercourse with a minor. A few days later, the 17-year-old student’s parents are notified that the college that their child was accepted to has canceled their offer of admission.

Mock Court Roles

FIRST-YEAR STUDENT

You are really upset and offended by what happened with the other student. You did consent to have sex with them, but you certainly would not have had you known in advance that this was part of some contest. You feel humiliated, and since everyone now knows what happened to you, you want the Senior to pay for their actions.

FIRST-YEAR STUDENT'S PARENTS

You are as upset as your child. You think the 17-year-old Senior coerced your baby and took advantage of them, and you want justice for your child. You also think that that Senior's parents are to blame, and you want to hurt and embarrass them too. You think the Senior should be expelled and should not be allowed to return to school.

FIRST-YEAR STUDENT'S CLOSE FRIEND

You and the first-year student have known each other since grade school. You think they're a great person, and you would never lie or say anything mean about someone else unless that person really had done something wrong. You think the 17-year-old Senior definitely raped your friend and should be punished.

17-YEAR-OLD SENIOR

You are the 17-year-old student. You cannot believe everyone is freaking out about this. You thought this was between you and the first-year student. You both wanted to have sex, and you thought that since they liked you, they wouldn't mind helping you win the contest. You don't see what the big deal is and you certainly don't want this to affect your future.

SENIOR'S PARENTS

You are very conservative and very religious, and the idea that your child was having sex outside of marriage is distasteful to you. You are very disappointed in your child, but do not think it is possible for them to be seen as a rapist. You understand why the other student's parents are upset, but think that this is a matter to be dealt with privately with your religious leader and not in a legal setting.

SENIOR'S CLOSE FRIEND

You and the Senior have known each other since middle school. You think they're a great person and that they would never lie or do anything mean to another person—it's just not in their nature. You are sure that this must be some kind of terrible misunderstanding. You've seen how great your friend is with younger kids, helping them after school and tutoring other high schoolers. You used to tease your friend for being kind of a goody-goody when you were younger, and you really can't blame them for wanting to do one thing that would make them seem cool in the eyes of the other seniors before they graduated.

Mock Court Roles

SENIOR CLASS PRESIDENT AND COUNCIL MEMBERS

You and the rest of the Senior Class Council have known about this tradition, but it has never been written down anywhere. You are the ones who have been pushing the students who are about to graduate to compete in the contest, but there's an unspoken rule that people don't talk about it—especially not with adults. You are terrified that you are all going to get into trouble and not be able to graduate. You want to cover yourselves and distance yourself from the Senior who is being accused of rape as much as possible.

PROSECUTING ATTORNEY

You interpret the law as meaning this was Unlawful Sexual Intercourse even though they both consented to it. But since they were both under the age of 18, this means that the younger person was not able to consent to the sex act, legally. Because it was part of a game, you really want to make the older person out to be a predator with no positive characteristics. This will make an example of the Senior and serve as a warning to others.

DEFENSE ATTORNEY

You want to demonstrate as much as possible that the first-year student is smart enough to know the difference between whether they wanted to have sex or not. You believe the school itself is to blame because they should have known about the tradition and stopped it. You do not think your client should be convicted of rape—in fact, you think this should be seen as a simple high school misunderstanding that is nobody else's business but the two people who had sex. You think the first-year student's parents are blowing it out of proportion and are just angry because they're uncomfortable with the idea of their child having sex.

JUDGE

Your job is to LISTEN. Think about the arguments each “person” makes, talk amongst yourselves, and reach your verdict. All you have to decide are two things: First, was this rape, according to the law; and second, regardless of whether you decide it was or was not, what consequence(s), if any, should there be for any of the people involved? Things you might consider include whether the Senior should be allowed to finish school, whether the Senior Class Council bears any responsibility, whether the school itself should be punished, whether the parents carry any responsibility, etc.

Rape and Sexual Assault Resources

If you or someone you know needs information about 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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