

Unit 10: The Bill of Rights and Incorporation

LESSON 1: WHAT IS INCORPORATION?

Handout A: Background Essay - What Is Incorporation?

1. Any three of these: the definition of citizenship; the privileges or immunities clause; the due process clause; and the equal protection clause.
2. Accept all reasoned responses.
3. Accept all reasoned responses.
4. Some people call the Fourteenth Amendment the “second Bill of Rights” because it ensures that everyone’s basic liberties are protected against action by the state.
5. Incorporation means that the protections of the Bill of Rights against the federal government are also protections against state or local governments.
6. Accept all reasoned responses.

Handout B: The Nation, the States, and Liberty

1. A veto on state laws is necessary to protect liberties. States shall not interfere with freedom of religion.
2. Madison’s drafts refer to protections against state limitations on liberties; the first amendment refers to protections against congressional limitations on liberties.
3. Anyone born in the United States is a citizen both of the country as well as of the state where they were born. All people are entitled to protections of life, liberty, and property. Each state must ensure that anybody living within the state is equally protected by the state’s laws.
4. Accept all reasoned responses. Some

students may say that state governments, since they are closer to the people, are better protectors of rights. They may argue that the federal government cannot protect people against the federal government. Others may argue that the federal government, which takes a national view of rights and liberties, is best positioned to ensure that anyone, no matter which state they live in, is guaranteed the same basic rights.

LESSON 2: WHO SHOULD PROTECT OUR FUNDAMENTAL FREEDOMS?

Handout A: Background Essay - Who Should Define Our Fundamental Freedoms?

1. A “landmark case” is one which offers directions for future decisions.
2. Total incorporation suggests that every single part of the Bill of Rights be applied against the states. Selective incorporation suggests that only those rights guaranteed in the first eight amendments which are “fundamental and essential in the concept of ordered liberty” be incorporated.
3. Accept all reasoned responses while encouraging students to focus on whether or not these actions violate our fundamental freedoms.
4. Because of incorporation, individuals’ identification with their nation has increased while their identification with their state has decreased. People expect that the federal government—not the state governments—will be the main protector of individual rights. The federal