

PREFACE

This curriculum guide and resource booklet was prepared by descendants of a few determined black people who lived in Clarendon County, South Carolina, during the 1940s. Their parents' actions in a quest for equality, their efforts to get their piece of the "American Dream," changed the course of United States history.

The series of events that our foreparents started became the legal case of *Briggs et al. v. Elliott et al.* This was the first case to reach the United States Supreme Court that challenged the constitutionality of segregated educational facilities. This was the first lawsuit that challenged the constitutionality of segregated educational facilities to reach the United States Supreme Court. Ultimately, *Briggs v. Elliott* became one of five cases argued before the Supreme Court as *Brown et al v. Board of Education of Topeka, Shawnee County, KS, et al.*

Briggs v. Elliott is of particular historical importance because it was the case that caused the NAACP to redirect its approach from suing for "separate but equal" facilities to challenging segregation as a violation of the Fourteenth Amendment of the U.S. Constitution.

The Supreme Court decision in favor of the plaintiffs in the five cases marked the beginning of a new era of civil rights and social awareness in the United States. It set the stage for the practice of equal opportunities for all persons – whether racial or ethnic minorities, women, disabled persons, senior citizens, or disease victims. Yet few people have ever heard of *Briggs v. Elliott*.

This booklet's purpose is to present an actual case history that teachers can use to help students in South Carolina schools: (a) to understand more of their state's history and (b) to appreciate the roles of the U.S. Constitution, of individual action and of due process of law in the United States' democratic society. As a result of following the curriculum, the student will become acquainted with a critical chapter in South Carolina's (and America's) history.

The guide provides suggested approaches for using *Briggs v. Elliott* in classroom instruction. It includes a resource specifically for teachers, as well as resources for student use.

The booklet is organized into five parts: Curriculum Guide, Origins of *Briggs v. Elliott*, Summaries of Legal Arguments and Supreme Court Decisions, Notes on Support Received by Petitioners and References, Appendices and Additional Student Resources.

In Part I, some instructional strategies are presented as Student Activities. These encourage critical examination of one chain of events that demonstrates the roles of the U.S. Constitution, of individual action and of due process of law in the United States' democratic society. Part II is a resource for both teachers and students. Part III is intended primarily as a teacher resource. Part IV provides additional background information. For historical completeness, the Appendices of Part V give lists of names and places referred to in the text. Part II and Part V, Student Resources, are photocopyable for class use.

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PART I

CURRICULUM GUIDE

A. PROCEDURES

Suggested Number of Teaching Periods

4-6 class periods (50 minutes each).

Social Studies Standards (South Carolina) Addressed

See pages 4-5.

Teacher Preparation

1. Review the curriculum, including the questions.
2. Read the resources. Photocopy them for students as necessary.

Background

On May 17, 1954, the United States Supreme Court handed down the decision that segregation in public schools violated the Fourteenth Amendment of the United States Constitution. The first of the five cases filed with the Supreme Court that resulted in this historic decision was *Briggs et al. v. Elliott et al.* from Clarendon County, SC. The Court's ruling directly affected school systems and educational practices in seventeen states that had laws either requiring or permitting racially separate schools. Indirectly, this decision has affected almost every facet of American society

After the Civil War many people did not think former slaves should have equal rights and protection. So discriminatory laws, referred to as "black codes" were enacted. To protect former slaves and their descendants from the "black codes," other laws and some amendments to the Constitution, including the Fourteenth, were passed. To avoid complying with the Fourteenth Amendment, the southern states passed laws that permitted or required "separate but equal" facilities for Americans of different races.

The "separate but equal" doctrine can be traced back to the 1849 case of *Roberts v. City of Boston*. That case started because five-year old Sarah Roberts had to walk past five white elementary schools to reach the elementary school she attended. The Massachusetts judge who heard the case ruled that the segregation law was founded "on reason" and so he did not rule against school segregation. Even though *Roberts* predated the Civil War and the Fourteenth Amendment, it set a legal precedent that was used to justify the subsequent "separate but equal" laws enacted in the nineteenth century. In 1896, the *Plessy v. Ferguson* case legitimized the "separate but equal" doctrine when the Supreme Court ruled that the practice of having separate but equal rail facilities was constitutional.

"Separate but equal" became the law of the land after *Plessy*. It continued as such until the decision of May 17, 1954. The 1954 decision, generally known as *Brown v. Board of Education*, was actually based on five cases argued concurrently before the Supreme Court. *Briggs v. Elliott* was one of these cases. Like *Briggs* and *Brown*, two of the other cases challenged the constitutionality of "separate but equal" schools under the Fourteenth

Amendment of the Constitution. The fifth, *Bolling v. Sharpe*, made the challenge under the Fifth Amendment.

Student Preparation (Outside of Class)

1. All students should read resource **Origins of *Briggs v. Elliott***, pages 11-17 of this booklet.
2. One group of students find photographs of schools, both rural and city, which were built more than 55 years ago and a picture of an old (from before 1940) school bus (Student Activity 1, Part A).
3. One group of students should interview older person (Student Activity 2, Part A).

Teaching Activities

TAPPING INTO PRIOR KNOWLEDGE

Explain to students that this unit focuses on one part of South Carolina's history and on the roles of the U.S. Constitution, of individual action and of due process of law in the United States' democratic society. Further explain that in the unit they will learn about: (a) events which occurred in South Carolina that have contributed to equal rights for all citizens, (b) U.S. District and Supreme Court decisions that contributed to these events, (c) opposition to these decisions and (d) the kinds of effects these decisions have had on the practice of American democracy.

Begin by assessing the extent of student knowledge about the lives of people in the 1940s. Follow with Student Activities 1 and 2, Part A.

EXPANDING KNOWLEDGE

Select four or more of the Student Activities, introducing different parts of the activities as desired.

Classroom Activities

1. Discuss changes in schools and bus transportation (Student Activity 1, Part B, Student Activity 2, Part B).
2. Read and discuss Preamble and the U.S. Constitution, and selected Amendments - see <http://www.house.gov/Constitution/Constitution.html> (Student Activity 3; Student Activity 6).
3. Read the following three items and follow with a discussion:
 - Dissenting Opinion of Judge J. Waites Waring in *Briggs v. Elliott* (see <http://brownvboard.org/research/opinions/briggs1.htm> (Student reading can begin near the end of the document at the paragraph that begins "In the instant case, the plaintiffs produced in large number of witnesses.") This can also be found at <http://www.nara.gov/education/cc/brown.html>, List of Documents # 1, pages 18-21.)
 - Judgment of *Brown v. Board* 1954
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=347&invol=483>,

List of Documents # 3)

— Judgment of *Brown v. Board* 1955 (Reargument)

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=349&invol=294>

4. Act out a skit showing discrimination (Student Activity 4).
5. Explain how *Briggs v. Elliott* has affected minority rights.
6. Discuss ways in which discrepancies between reality and the ideals of American constitutional democracy can be reduced (Student Activity 5).
7. Discuss the concept of States Rights (Student Activity 7).
8. Identify the three branches of government and the way a civil lawsuit reaches the Supreme Court (Student Activity 8).

Additional Approaches:

1. Write a letter inviting an official to discuss a recent case of discrimination (Student Activity 6).
2. Identify a news event from the last 12 months that demonstrates some kind of prejudice or discrimination (Student Activity 5).
3. A made-for-television movie, *Simple Justice* (Public Broadcasting System), dramatizes the events leading to the landmark decision of *Brown v. Board*. It starts with the *Briggs* case and describes the long journey to *Brown v. Board*. The film can be used to motivate interest and spur lively discussions with students.

After viewing the film, analyze and discuss it in light of the actual facts of the *Briggs v. Elliott* case. Pose the following questions to students: If you were a filmmaker today, how might your film about *Briggs v. Elliott* be different? Why do you think the film was made the way it was? Who were the characters in the film that stood out for you? How did the decisions made by the real people depicted by the characters affect their own lives? How did they affect the lives of other people in and beyond their community? How did they affect your life today?

REINFORCING KNOWLEDGE

Using the Social Studies Standards for reference, select six or more learning outcomes from the List of Suggested Tests of Knowledge to be emphasized.

**B. SOCIAL STUDIES STANDARDS (SOUTH CAROLINA DEPARTMENT OF EDUCATION)
ADDRESSED**

- 5.4 The learner will demonstrate an understanding of government, its origins and functions, including civic life and politics.
- 5.4.1 The student should be able to explain representative government, the rule of law, majority rule, minority rights, and popular sovereignty.
- 5.5 The learner will demonstrate an understanding of the foundations of American democracy, including its basic principles and the basis of the American political system. The student should be able to
- 5.5.2 describe diversity in the United States and its benefits and challenges, and
- 5.5.5 discuss events that demonstrate and promote principles of American democracy.
- 8.7 The learner will demonstrate an understanding of the role of the citizen in American democracy, including personal and civic rights and responsibilities. The student should be able to
- 8.7.2 differentiate between personal, political, and economic rights,
- 8.7.4 identify the factors that enhance the effectiveness of citizens and promote the functioning of American constitutional democracy,
- 8.7.5 describe the means by which Americans can monitor and influence politics and governments, and
- 8.7.7 explain the struggles for equity in the political arena that affected African Americans, women, and other ethnic and religious groups.
- 12.2 The learner will demonstrate an understanding of the major developments in the United States and South Carolina from the end of World War II to the present.
- 12.2.5 The student should be able to evaluate the struggle for racial and gender equality and the extension of civil liberties.
- 12.3 The learner will demonstrate an understanding of government, its origins and functions, including civic life and politics. The student should be able to
- 12.3.3 compare and contrast the terms “rule of law” and the “rule of man,” explaining how the rule of law protects individual rights and the common good, and
- 12.3.4 explain the various purposes that constitutions serve.
- 12.4 The learner will demonstrate an understanding of the foundations of American democracy, including its basic principles and the foundations of the American political system. The student should be able to
- 12.4.10 identify some important American ideals and explain, using historical and contemporary examples, discrepancies between American ideals and the realities of political and social life.

- 12.4.11 identify and give examples of ways in which discrepancies between the reality and the ideals of American constitutional democracy can be reduced by individual action, social action, and political action.

- 12.5 The learner will demonstrate an understanding of the role of the U. S. Constitution in American democracy, including the ways in which the U. S. government established by the Constitution embodies the purposes, values, and principles of American democracy. The student should be able to
 - 12.5.1 evaluate and take and defend positions on issues regarding the distribution of powers and responsibilities within the federal system,
 - 12.5.3 explain why states have constitutions, their purposes and the relationship of state constitutions to the federal constitution, and
 - 12.5.8 define the concept of due process of law and explain the importance to individuals and society.

- 12.7 The learner will demonstrate an understanding of the role of the citizen in American democracy, including personal and civic rights and responsibilities. The student should be able to
 - 12.7.3 identify the major documentary sources of personal, political, and economic rights,
 - 12.7.4 evaluate and take and defend positions on issues involving personal, political, and economic rights.

C. STUDENT ACTIVITIES

- | | | | | |
|----|---------------------------|-------|-------|---------|
| 1. | Social Studies Standards: | 5.5.5 | 8.7.4 | 12.4.10 |
| | | | 8.7.5 | 12.4.11 |
| | | | 8.8.7 | 12.7.4 |

Part A. Find some pictures of schools, both rural and city, which were built in your state more than 55 years ago. Find out all you can about these schools. Were they segregated? Compare and contrast the schools with each other and with the school you attend. Suggest reasons for the differences in the schools. Do you think the reasons were justifiable? Do any of your reasons have something to do with unfairness? Discuss your answers.

Try to find a picture of an old (from before 1940) school bus if you can. Do you think that every school had at least one school bus? How do you think it was decided which students would ride a school bus to get to school in 1945? Is bus transportation provided for some students at your school? If so, how is it decided which students ride the bus?

Part B. Learn about the Clarendon quest for equality. What was the reason it was started? Which of the school pictures that you looked at probably is most similar to schools attended by black Americans in Clarendon County in 1945? Which school picture that you looked at do you think is most similar to present day Clarendon County schools attended by black Americans? Discuss the probable differences in Clarendon County schools in 1945 and now. Which children in Clarendon County were provided with bus transportation to school in 1945?

Part C. Explain how the U.S. Constitution was partly responsible for the change in the schools and ways children get to school in Clarendon County.

- | | | | | |
|----|---------------------------|-----|-----|------|
| 2. | Social Studies Standards: | 5.5 | 8.7 | 12.4 |
|----|---------------------------|-----|-----|------|

Part A. Interview a person who was born before 1945 and who attended school in the United States. Did s/he attend integrated schools? Ask what types of facilities were at the school (*e.g.*, for drinking water, toilets, lunch, heating). How large were the classes? How far did the person live from the school? How did students travel to and from school? Were there teachers of different races in the school? How long was the school year? How long was the school day? Write 2–4 paragraphs that summarize your interview.

Part B. After learning about the Clarendon County quest for equality, identify ways in which your school experience is different from that of the person you interviewed. Write 1-2 paragraphs comparing your school experience to that of the person you interviewed.

3. Social Studies Standards: 5.4 8.7 12.2
5.5.1 12.7

Part A. Read the Preamble to the United States Constitution. Explain in your own words what it means. What function does it serve? What does the word ‘preamble’ mean? With other members of your class, examine the body of the Constitution. Is there anything written there about freedom? About the treatment of different sexes? Different races? Is there a statement that implies girls can participate equally in school sports? What does it say about voting rights? Is there anything that specifies freedom of speech? If these guarantees are not in the Constitution, find and discuss the documentation that does give us those rights.

Part B. After learning about the Clarendon County quest for equality, demonstrate your understanding of the rule of law and minority rights. Describe the means by which Clarendon County blacks influenced the politics and government of South Carolina and of the nation.

From your knowledge of *Briggs v. Elliott*, explain why it was necessary to add amendments to the constitution. What is the Bill of Rights?

4. Social Studies Standards: 5.5.2 8.7.7 12.2.5

Part A. With a group of your classmates, write and act out a skit that shows how a group of teenagers discriminates against a classmate who is somewhat different from themselves (for example, a student who has epilepsy or an unattractive student with a reading disability). Discuss the effects of the treatment on the person who is discriminated against. Suggest ways of addressing the situation. Discuss the challenges of solving the problem. Discuss the relevance of the Fifth and Fourteenth Amendments to this situation.

Part B. After learning about the Clarendon County quest for equality, compare the treatment of a “different” teenager with the way that blacks were treated in Clarendon County. Evaluate how the quest for equality in Clarendon County affected the legal protection of the students discussed above. What have been the benefits and challenges to making public schools more diverse?

5. Social Studies Standards: 8.7 12.4.10

Identify a news event from the last 12 months that demonstrates some kind of prejudice. Explain what you believe the prejudiced action was. What is the difference between prejudice and discrimination? Find a place in the U.S. Constitution that offers protection against the discrimination that results from this type of prejudice. Discuss whether there are possible resolutions for the prejudice. Identify and give examples of ways in which discrepancies between the reality and the ideals of American constitutional democracy can be reduced by individual action, social action and political action.

6. Social Studies Standards: 12.3

Write a proper business letter inviting a police officer, a lawyer or an elected official to your class to discuss a recent case of discrimination. Make sure your letter explains what you would like the person to talk about. For example, you may want the official to talk about how the *Briggs v. Elliott* case violated the U.S. Constitution and to define how the laws of your state support (or contradict) the U.S. Constitution. Other questions you may want to ask are: (a) how your local laws are made and who makes them, (b) what happens if most people disobey a law and (c) what happens if most people are unhappy with a law. Also, make sure to put details in your letter concerning when you want the person to speak to your class and where your school is located. (This is called “Answering What?, Where?, When?, Why? and Who?”) Have your teacher approve the letter before you actually mail it.

7 Social Studies Standards: 8.7 12.5

Read the 13th and 14th Amendments. Explain why Section 1 of the 14th Amendment was necessary since the 13th Amendment had already been passed.

After learning about *Briggs v. Elliott*, describe one or more situations that can be interpreted as involuntary servitude. Describe one or more situations that can be determined as interfering with pursuit of happiness?

Discuss the concept of States Rights. Is there any provision in the Constitution that allows a state to make special laws, or to make exceptions to the constitution, regarding a certain group of citizens? Do you think this is right? Defend your answer.

8. Social Studies Standards: 5.4 12.3

Identify the three branches of government as specified by the U.S. Constitution. Discuss the functions of each. In the Clarendon County Civil Rights effort, what role did each branch probably play at the local level? At the state level? At the national level?

Discuss the process by which civil cases reach the U.S. Supreme Court.

D. SUGGESTED TESTS OF KNOWLEDGE

- 5.4.1 How did the concept of majority rule and state sovereignty conflict with the rule of law and minority (in this case, African-Americans) rights in *Briggs v. Elliott*?
- 5.5.2 Discuss the reasons given by the lawyers of the defense in *Briggs v. Elliott* for maintaining racially separate schools?
What, if any, were the benefits of separate schools?
What were the challenges presented by maintaining racially separate schools?
- 5.5.5 In the *Briggs v. Elliott* case, how were the principles of American democracy used to address the concerns of the African-American parents?
How were support groups used to address these concerns?
- 8.7.2 In the *Briggs v. Elliott* case, were the plaintiffs' concerns mostly of a personal nature or were they political? Justify your answer.
- 8.7.4 Describe how *Briggs v. Elliott* contributed to improving the practice of democracy in America.
- 8.7.5 List two ways in which the *Briggs v. Elliott* (as a part of *Brown v. Board*) decision has influenced South Carolina and national politics.
- 8.7.7 What kind of impact has the *Briggs v. Elliott* (*Brown v. Board*) decision had on ethnic enrollment in your school?
Has *Briggs v. Elliot* had an impact on girls' athletics in your school? If so, explain how.
How have advocacy groups influenced national policies and practices regarding special groups such as the handicapped?
- 12.2.5 Describe the impact of the *Briggs v. Elliott* (*Brown v. Board*) decision on the struggle for racial and gender equality, as well as on civil liberties, in your community.
- 12.3.3 Describe the role of the Fourteenth Amendment (a "rule of law") in the *Briggs v. Elliott* (*Brown v. Board*) decision?
Were the "rule of law" and the "rule of man" in conflict in *Briggs v. Elliott* (*Brown v. Board*)? Defend your answer.
- 12.3.4 Explain how the United States constitution empowered the U.S. Supreme Court to overrule the South Carolina constitution in the *Briggs v. Elliott* (*Brown v. Board*) decision.
Of the five cases that were combined by the Supreme Court as *Brown v. Board*, why was one (*Bollin v. Sharpe* from Washington, D.C.) argued under the Fifth Amendment and the other four argued under the Fourteenth Amendment?

- 12.4.10 List three ways by which the U.S. Supreme Court determined that the rights of some students were being violated as a result of segregated schools.
- 12.4.11 Using your knowledge of history, explain how you would address a situation that you believe infringes on your constitutional rights.
- 12.5.1 Evaluate the powers of the Supreme Court and compare them with the powers and responsibilities of your state.
- 12.5.3 How was South Carolina's Constitution in conflict with the Constitution of the United States in *Briggs v. Elliott*? Explain how you arrived at your answer.
- 12.5.8 As determined by the Supreme Court, how was the State of South Carolina violating the due process guaranteed under the Fourteenth Amendment before *Briggs v. Elliott*?
- 12.7.3 Identify the documentary source of the rights that the *Briggs v. Elliott* plaintiffs felt were being violated.
State the reason the defendants believed they had the authority to operate segregated public schools.
- 12.7.4 Discuss the ways in which your rights been affected by the decision of *Briggs v. Elliott* (*Brown v. Board*).