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| **TEXAS CTE LESSON PLAN**  [www.txcte.org](http://www.txcte.org) | |
| **Lesson Identification and TEKS Addressed** | |
| **Career Cluster** | Law, Public Safety, Corrections, and Security |
| **Course Name** | Court Systems and Practices |
| **Lesson/Unit Title** | Motions and Challenges to Evidence |
| **TEKS Student Expectations** | **130.340. (c) Knowledge and Skills**  (5) The student examines the steps by which a criminal charge is processed through pretrial, trial, adjudication, and the appellate stages.  (B) The student is expected to explain pretrial court proceedings such as rules of discovery, challenges to evidence, and the bail process |
| **Basic Direct Teach Lesson**  (Includes Special Education Modifications/Accommodations and  one English Language Proficiency Standards (ELPS) Strategy) | |
| **Instructional Objectives** | The student will be able to:   1. Identify the several types of motions and objections use at trial 2. Explain the reasoning behind each 3. Play the role of an attorney at trial who has reason to object to the line of questioning 4. Critique other students’ reason for objecting to the line of questioning |
| **Rationale** | An attorney needs to be aware of the pre-trial tools they have, through motions and objections, to protect their client from constitutional violations and assure their client a fair trial. |
| **Duration of Lesson** | 5 hours |
| **Word Wall/Key Vocabulary**  *(ELPS c1a,c,f; c2b; c3a,b,d; c4c; c5b) PDAS II(5)* |  |
| **Materials/Specialized Equipment Needed** | * Motions List |
| **Anticipatory Set**  (May include pre-assessment for prior knowledge) | Use the following scenario and question for a class discussion:  You are an intern working at a defense attorney law firm. You have been given a case to work on that involves a client who needs good representation. As you study his case you see that the evidence is unfairly stacked against him. Some of the issues you have identified that hurt your client are   * not all the elements of the crime are proven * some of the evidence gathered was taken from the client’s house without a search warrant * most of the potential jurors are biased * another person charged with the same crime is going to try to blame your client for the whole thing   What requests can you make to the judge in addressing these issues?  The Discussion Rubric may be used for assessment. |
| **Direct Instruction \*** | 1. Motions    1. Definition       1. A formal request made to a court for it to do something       2. Motions can be oral, which are the most common kind in trials and hearings       3. Any evidence obtained in an unconstitutional manner may not be used at trial       4. Motions serve to enforce this rule    2. Motion to Dismiss or Quash       1. This occurs when the defendant believes that the indictment or information is fatally flawed       2. Examples would include          1. The court lacks jurisdiction          2. The facts alleged do not amount to a crime          3. an essential element is not charge          4. The defendant has a legal defense such as double jeopardy    3. If the court agrees with the defendant, the prosecutors are oftentimes allowed to amend the charge instead of dismissing it    4. Dismissing the charge does not mean the defendant cannot be recharged with it later 2. Motion to Suppress    1. The purpose of this hearing is to determine if the evidence was obtained in an unconstitutional manner    2. If it is found that evidence was obtained in an unconstitutional manner then the motion to suppress is granted and the evidence is not allowed in trial    3. Defendants may testify at suppression hearings, and their testimony may not be used against them at trial. This occurs in a separate hearing before the trial 3. Motion for Change of Venue    1. Venue means the place for the trial    2. A defendant may ask for the trial to be moved to another location if a defendant receives considerable negative media coverage 4. Motion for Severance    1. Defendants may be tried together for the same crime    2. The defense may be antagonistic, which means the jury must disbelieve one to believe another    3. In this situation, the defendant may want to file a motion of severance to have his or her own trial to assure a fair trial 5. Motion in Limine    1. This can be done by the defendant or the prosecution    2. This is a request that the court order the other party not to mention or attempt to question a witness about some matter    3. This is similar to a motion to suppress except that it can apply to more than illegally seized evidence 6. Motion for a Protective Order    1. This can be filed if the prosecution fears that revealing information required under a discovery rule will endanger the case or a person’s life    2. If this applies, the court will review the evidence in camera (in private) and decide if it is necessary to keep it from the defendant or not 7. Motions for Continuance    1. Attorneys can request that hearings or the trial be delayed for various reasons, including providing more time to prepare for the trial or gather witnesses    2. Courts must be careful not to violate speedy trial requirements   I. Motion for Mental Examination- if the defense counsel believes that the defendant is not competent to stand trial, they can request a mental examination  J. Invoking the rule- invoking the rule is a request by either party to have all the witnesses leave the courtroom unless they are in the process of testifying  II. Objections   * 1. Definition      1. Another form of challenging evidence      2. Objections are made in court by either party that contests the legality of the other side’s questions      3. There are numerous objections. Some of the most common will now be covered   2. Lack of Personal Knowledge      1. A witness may not testify on any matter about which he or she has no personal knowledge. Nor may an exhibit be offered into evidence without the necessary facts showing its relevance and background being established.      2. OBJECTION: “The witness has no personal knowledge that would enable him or her to answer this question.”   3. Opinion Testimony by Non-Experts      1. Witnesses who are not testifying as experts may give opinions which are based on what they saw or heard, and that are helpful in explaining their stories.      2. However, in other than matters that are commonly known (such as the speed of a car or clumsiness of a person) witnesses should state only facts—not opinions.   4. Assuming Facts Not in Evidence      1. Attorneys shall not ask questions that assume unproven facts.      2. EXAMPLE: “When did you stop beating your spouse?”      3. OBJECTION: “The question assumes facts not in evidence.”   5. Questions Calling for a Narrative Answer      1. Questions should be asked so as to call for a specific answer and should not be too broad.      2. EXAMPLE: “Tell us what you know about this case.”      3. OBJECTION: “Counsel is calling for a narrative answer.”   6. Hearsay      1. Asking a witness about a statement made by someone else is hearsay and is not usually permitted.      2. EXAMPLE: “Did the police officer say the defendant was speeding?”      3. OBJECTION: “Counsel’s question is seeking a hearsay response.”   7. Relevance of Evidence      1. Only relevant testimony and evidence may be presented during a trial.   8. This means that the only physical evidence and testimony allowed is that which tends to make a fact important to the case more or less probable than the fact would be without the evidence.   9. EXAMPLE: The defense asks on cross-examination, “What is your job?”   10. OBJECTION: “I object, Your Honor. The evidence (or testimony) is not relevant to the facts of this case.”  1. Character    1. Evidence about the character of a party or witness (other than his or her character for truthfulness or untruthfulness) may not be introduced unless the person’s character is at issue in the case.    2. EXAMPLE: Have you ever received a speeding ticket?    3. OBJECTION: “This question calls for improper character assumptions.” 2. Leading Question    1. A leading question is one that suggests to the witness under direct examination the answer desired by the questioner, or suggests a “yes” or “no” answer.    2. EXAMPLE: “Sergeant Jeans, you really couldn’t see the defendant very well, could you?”    3. OBJECTION: “Counsel is leading the witness.”    4. An attorney may ask leading questions when cross-examining the opponent’s witnesses, and in fact, that is the desired form for cross-examination questions.   *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Guided Practice \*** | Divide the class into two teams. Call out information about the motions and either have the team who calls out the correct answer first win the round, or go back and forth between the teams until there are no more questions and the team with the most correct answers wins. Use the Motions List for this activity. Use the Individual Work Rubric for assessment.  *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Independent Practice/Laboratory Experience/Differentiated Activities \*** | * Have students complete the Motions and Challenges to Evidence (open-note) Quiz. * Have students create and write scenarios for each objection. * Have the students turn in the written assignment, then divide the class into teams of three. * Give each team some of the scenarios written by other students. The number of scenarios per team depends on the total number of scenarios written. Each team must have at least three.   + During this activity, the students in the teams will alternate acting as a prosecutor, a defense attorney, and a witness on the stand.   + Decide beforehand which attorney position is expected to give an objection. The other attorney and the witness on the stand will role play the scenario until the opposing attorney objects.   + Have the class assess the objecting attorney on the appropriateness of and reason behind the objection using the Debate Rubric.   + You may require the students to write explanations of their peer assessment. If you use the additional assignment, use the Writing Rubric for assessment   *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  NONE |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \*** | * Motions and Challenges to Evidence Exam and Key * Motions and Challenges to Evidence Quiz and Key * Debate Rubric * Discussion Rubric * Individual Work Rubric * Research Rubric * Writing Rubric   *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*  For reinforcement, students will explain what injustices could be done if these specific motions and objections were not in place. Use the Writing Rubric for assessment. |
| **References/Resources/**  **Teacher Preparation** | * ISBN: 0766818314, Criminal Law and Procedure (5th Edition) by Daniel E. Hall, J.D., Ed.D. * Do an Internet search for law WebTV |
| **Additional Required Components** | |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** | English Language Arts   1. Speaking   A. Understand the elements of communication both in informal group discussions and formal presentations (e.g., accuracy, relevance, rhetorical features, organization of information).  1. Understand how style and content of spoken  language varies in different contexts and influences the listener’s understanding.  2. Adjust presentation (delivery, vocabulary, length) to particular audiences and purposes.  Cross-Disciplinary Standards  I. Key Cognitive Skills   1. Reasoning   2. Construct well-reasoned arguments to explain phenomena, validate conjectures, or support positions. |
| **Recommended Strategies** | |
| **Reading Strategies** |  |
| **Quotes** |  |
| **Multimedia/Visual Strategy**  **Presentation Slides + One Additional Technology Connection** |  |
| **Graphic Organizers/Handout** |  |
| **Writing Strategies**  **Journal Entries + 1 Additional Writing Strategy** |  |
| **Communication**  **90 Second Speech Topics** |  |
| **Other Essential Lesson Components** | |
| **Enrichment Activity**  (e.g., homework assignment) | For enrichment, students will research any history, law, or court cases they can find on how the specific motions and objections came about. Use the Research Rubric for assessment. |
| **Family/Community Connection** |  |
| **CTSO connection(s)** | SkillsUSA |
| **Service Learning Projects** |  |
| **Lesson Notes** |  |

1. Visit the Texas College and Career Readiness Standards at <http://www.thecb.state.tx.us/collegereadiness/CRS.pdf>, Texas Higher Education Coordinating Board (THECB), 2009. [↑](#footnote-ref-1)