

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO
IDAHO STATE JUDICIARY
UNIVERSITY OF IDAHO COLLEGE OF LAW
IDAHO ATTORNEYS FOR CIVIC EDUCATION

2022 IDAHO TEACHERS' INSTITUTE ON LAW-RELATED CIVIC EDUCATION
June 9-10, 2022

***THE UNITED STATES CONSTITUTION, TRIBAL SOVEREIGNTY,
AND THE IMPORTANCE OF AN INDEPENDENT, IMPARTIAL JUDICIARY
TO PRESERVING THE RULE OF LAW***

AGENDA & PROGRAM OUTLINE

- (1) The venues have a masks optional policy as of the printing of this agenda.
(2) A list of core questions for the workshops conducted by master teachers is attached as an appendix to this document.

Day One – Thursday, June 9, 2022
James A. McClure Federal Building and United States Courthouse
550 W. Fort Street, 4th Floor, Boise, Idaho

7:30 to 8:00 a.m. – Registration and Notebook Distribution

Sign-in and administration (including registration and fee payment by participating teachers who seek professional development/continuing education credit). Coffee, tea, and water provided (breakfast on your own). Meet in Salmon River Room (Clerk's Office - 4th floor).

8:00 to 8:20 a.m. – Opening Session

- Welcoming remarks
 - On behalf of Idaho's federal judiciary: Hon. David C. Nye, Chief United States District Judge, District of Idaho
 - On behalf of the Idaho state judiciary: Hon. G. Richard Bevan, Chief Justice, Idaho Supreme Court
 - On behalf of Attorneys for Civic Education (ACE), Idaho State Bar: Hon. Jessica M. Lorello, Chief Judge, Idaho Court of Appeals, and past chair of ACE
 - On behalf of the University of Idaho College of Law: Johanna Kalb, Professor and Dean of the College
- 8:15 a.m. - Introduction to the federal court case, Alyssa Nielsen, law clerk to U.S. Chief District Judge David C. Nye

8:20 to 10:00 a.m. – Federal Court Proceeding

- 8:20 a.m. - Leave Salmon River Room to go to 6th floor, Chief Judge Nye's courtroom, for court hearing

- 8:30 a.m. - Attend hearing
- 9:30 a.m. - Question and answer session with court staff or attorneys

10:00 to 10:15 a.m. – Break and Return to Meeting Room

10:15 to 10:35 a.m. – Overview of the Institute

- Venue and program information, professional development/continuing education credit: Katherine (Katie) Ball, Clinical Professor, College of Law
- Curriculum design, pedagogy, and objectives: Russ Heller, educational services supervisor for K-12 history and social sciences, Boise School District (retired)
- Introduction of master teachers: Mark Boatman, Brendan Earle, Blake Gaudet, Peggy Godby, Anna Resnick, and Paige Somoza
- Teacher/attendee self-introductions

10:35 to 11:20 a.m. – Topic 1: America’s Enduring Experiment; A Constitutional Republic Anchored by an Independent, Impartial Judiciary

- Distributing Power and Protecting Rights in Our Constitutional Republic
Don Burnett, Professor Emeritus and past Dean, College of Law
 - “Vertical” and “horizontal” dispersions of governmental power: preventing tyranny of the few over the many
 - Explicit recognition of rights: preventing tyranny of the many over the few
 - The “rule of law” v. the “law of rulers”
- Judicial independence and impartiality: America’s unique vision
 - “Checks and balances” and the true meaning of “judicial independence”
 - The imperative of judicial “impartiality” – even (and especially) in hyper-partisan times
 - Civil justice: Principled resolution of disputes
 - Criminal justice: A government that obeys the law while enforcing the law

11:20 to 11:35 a.m. – Break & Pick up Boxed Lunches

11:35 to 12:10 p.m. – Lunch and Ceremony Recognizing 2022 District of Idaho High School Civics Essay Contest Winners (see attached notice)

12:10 to 12:50 p.m. – Workshop Discussion on Topic 1, convened and facilitated by master teachers

- What does the phrase “rule of law” mean to your students? (What essential elements of a rule-of-law system can they identify?)
- Some commentators on judicial decisions say the courts have a duty to follow “the will of the people.” What does this mean? (How can you encourage students to think carefully about this in relation to the idea of an independent and impartial judiciary?)

12:50 to 1:50 p.m. – Topic 2: The Media’s Role in Educating the Public About the Work of an Independent, Impartial Judiciary

- Stephen Kenyon, Clerk of the U.S. Bankruptcy & District Court, convening panelist
- Scott Graf, Public Information Officer, State of Idaho, Attorney General’s Office
- Hon. Gregory Moeller, Justice, Idaho Supreme Court
- Nate Poppino, Communications Manager, Idaho Supreme Court
- Betsy Russell, Betsy Russell, Boise Bureau Chief, The Idaho Press; author, “Eye on Boise” blog; and President, Idaho Press Club

1:50 to 2:00 p.m. – Break

2:00 to 4:50 p.m. – Topic 3: Selected Topics on the U.S. Constitution and Tribal Sovereignty

- **2:00 – 2:50: First Amendment Primer**
Benji Cover, Professor, University of Idaho College of Law
- **2:50 – 3:50: Tribal Sovereignty and the U.S. Constitution**
Dylan Hedden-Nicely, Professor, University of Idaho College of Law
- **3:50 – 4:50: Workshop Discussion on Topics 2 and 3, facilitated by master teachers**
 - In order for the public to understand the distinctive role of the judiciary, what should a media report of a judicial decision contain? E.g., the parties to the case, the main issue(s), and the outcome. When is it important to include reaction of commentators or other people who have an interest in the case? AND what law-based principle(s) did the court state in its decision? (Do the media usually mention principles when reporting on a decision? How can you help students understand why principles are important, and how to identify them in a decision?)
 - Suppose (a) Congress passes a law requiring news media to get pre-approval from the U.S. State Department for any story about the cost of overseas travel by members of Congress; (b) a newspaper publishes an editorial criticizing the law, but a political activist submits a letter to the newspaper, praising the law as a safeguard against “corrupt and sloppy” journalism; and (c) the newspaper refuses to publish the letter. Where (if anywhere) in this scenario has any First Amendment violation occurred?
 - What are examples of a federal law, a state law, and a tribal law that are binding upon members of an Indian tribe? (How can you help your students understand the historical reasons for this tri-part governmental framework?)

Evening of Day One

**Social Gathering (5:30 p.m.) and Buffet Dinner (6:00 p.m.)
Marriott Residence Inn**

**Dinner Panel Topic:
Current Issues in Constitutional Law**

Presenter: Dave Metcalf, former senior staff attorney at the United States District Court for the District of Idaho and adjunct professor at the University of Idaho College of law

Day Two – Friday, June 10, 2022

Idaho Supreme Court, 451 W State St., Lincoln Conference Room, Boise, Idaho

8:00 to 10:15 a.m. – Topic 4: How Do Judges Understand, and Strive to Fulfill, Their Duties of Independence and Impartiality?

- 8:00 a.m. – *Topic 4A: Making and Communicating Judicial Decisions*
 - Don Burnett, Professor Emeritus and past Dean, College of Law, convening panelist
 - Hon. Candy W. Dale, U.S. Magistrate Judge, District of Idaho
 - Hon. David Gratton, Judge, Idaho Court of Appeals

- 9:15 a.m. - Break

- 9:30 a.m. – *Topic 4B: Distinctive Roles of Trial and Appellate Courts*

Hon. Jessica M. Lorello, Chief Judge, Idaho Court of Appeals

 - Trial and appellate court approaches to issues of law, fact, and discretion
 - The function of oral argument in appellate justice
 - Roles of the Court of Appeals and Supreme Court in Idaho’s state appellate system
 - Introduction to upcoming oral argument in the Idaho Supreme Court by Chief Judge Lorello

10:15 to 11:00 a.m. Workshop Discussion on Topics 4A & 4B, facilitated by master teachers

- How do a judge’s responsibilities differ from the public’s expectations for officeholders in the other two branches of government? (How can you help your students recognize the differences?)

- Why do courts – especially appellate courts – usually deliver written opinions with their decisions? (Wouldn’t it be more efficient simply to announce the outcomes?)

- How does the work of an appellate court differ from the work of a trial court? (In what court are witness testimony and evidence presented? What is the purpose of oral argument in an appellate court? Does an appellate court second-guess the trial court on every issue?)

11:00 a.m. to 12:55 p.m. – Short break and proceed upstairs to courtroom to attend oral argument in person. Argument will begin promptly at 11:10 a.m., followed by opportunity for a brief question and answer session between teachers and Supreme Court Justices.

Case: State v. Moore, Case No. 48817

1:00 to 1:45 p.m. – Lunch

1:45 to 3:00 p.m. – Topic 5: Judicial Selection Process (State and Federal)

Hon. Jessica Lorello, Chief Judge, Idaho Court of Appeals, convening panelist

- Sandra Barrios, Trial Court Administrator, Fourth Judicial District/Idaho
- Hon. Robyn Brody, Justice, Idaho Supreme Court
- Hon. Jeff Brudie, District Judge, Second Judicial District of Idaho; Interim Executive Director, Idaho Judicial Council
- Hon. Debora Grasham, United States Magistrate Judge, District of Idaho

3:00 to 3:15 p.m. – Break

3:15 to 4:00 p.m. – Workshop Discussion on Topic 5, facilitated by master teachers

- What are the main differences between the federal system of selecting judges and justices, and the Idaho system? (What are the strengths and weakness of each system? Does either system do a better job of supporting an independent, impartial judiciary?)
- What do your students think are the characteristics of a good judge? (Are there—or should there be – any political or public policy “litmus tests?”)

4:00 to 4:40 p.m. – Topic 6: Summing up – Best Practices in Teaching Civic Education with a Focus on the Rule of Law and the Role of an Independent, Impartial Judiciary

Master teachers and Russ Heller

- Panel discussion and interactive engagement between master teachers and teacher-participants

4:40 to 5:00 p.m. – Administration and Adjournment

- Professor Katie Ball and Russ Heller
 - Completing teachers’ evaluations of the Institute
 - Reviewing the process for submission of materials to satisfy the requirements for one credit hour of professional development/continuing education
 - Awarding certificates of participation

APPENDIX

Core Questions for Workshops Conducted by Master Teachers

- What are the *main points* you plan to develop in your classrooms back home?
- What *learning outcomes* will you seek for your students?
- What *challenges* will you face in achieving those outcomes?
- How will you *assess* the achievement of those outcomes?

Master teachers are encouraged to conclude each workshop session, using the core questions to help summarize the session's takeaway.