**Name:**

**Date:**

**School:**

**Facilitator:**

2.04 Notes Guide

**“Amending the Constitution”**

Answer the 2.04 Notes Guide as you review the lesson.

Introduction:

When you hear the words “freedom, liberty, and rights,” what comes to mind?

What freedoms do you hold most dear?

What guarantees those freedoms?

Timeless Document

The Constitution of the United States has stood the test of time. Think about all the technological, social, economic, and political changes that have occurred in our nation since the Constitution was originally written. There were no cars, planes, phones, computers, or even electricity in 1787. As the nation changed over time, the government could adapt because the Founding Fathers made the Constitution flexible. This flexibility has allowed the document to remain relevant in modern society while holding the government to a framework that protects rule of law and limited government.

Amending the Constitution

The Founding Fathers provided flexibility, but made it difficult to formally amend the Constitution. Despite the enormous changes in our society in over 225 years, our Constitution has been amended only 27 times.  are changes or correction of errors that require approval by three-fourths of the states. explains the process for adding formal amendments to the Constitution.

The two-step process for amending the Constitution includes, , or suggesting, an amendment and , or approving, an amendment both of which require a .

Step 1: Amendment Proposal

There are two ways to propose constitutional amendments:

1. Congress has the power to propose amendments. The proposed amendment must receive the approval of at least two-thirds of the House and two-thirds of the Senate.
2. Delegates at a  may propose constitutional amendments. At least two-thirds of the state legislatures must request Congress to call the national convention.

At this point in history, all amendments to the United States Constitution have been proposed by Congress.

Step 2: Amendment Ratification

Congress chooses one of two ways for States to ratify an amendment:

1. may vote on a proposed amendment. At least three-fourths of the states’ legislatures must approve an amendment before it is added to the Constitution. The citizens may also be requested by the state legislature to vote on an amendment before the legislative vote.
2. Conventions may be called in each state to consider a constitutional amendment. The representatives or delegates at the conventions are elected by citizens. At least three-fourths of the states’ conventions must approve of the amendment for ratification to the Constitution.

Informal Amendment Process

The process is arguably the most important aspect of the document created by the Founding Fathers at the Constitutional Convention in 1787. It has allowed the document to grow and change as the country changed in ways the Founders could not possibly have foreseen. The flexibility of the document allows it to serve a nation that is able to use a wide range of technology for communication today despite the fact that the document was written with a quill pen on parchment paper.

There are five basic means of informally amending the Constitution: basic legislation, executive action, judicial decisions, party practice, and custom.

Basic Legislation

The Constitution created a basic outline for the national government. Over time, Congress has passed legislation to define the details of needed additions to that basic framework. For example, , requires that there would be a Supreme Court and “such other courts as Congress deems necessary.” Once the first Congress was elected, one of their first actions was to pass the Judiciary Act of 1789 which created the federal court system.

Executive Action

Through , strong Presidents can expand the power of the government. George Washington decided he would use the heads of the newly created executive departments to serve as advisors. The group, known as the , began to meet on a regular basis to advise the President. The Cabinet is a vital part of the national government today despite the fact that it is not provided for in the Constitution.

Judicial Decisions

As the federal courts decide cases, they add to the meaning of the Constitution. The court case, , 1803, is an example of the growth of the national government’s power through judicial decisions. As a result of Marbury v. Madison, the Supreme Court ruled that the courts have the power to declare laws unconstitutional. As a result, judicial review became a basic constitutional principle.

Party Practice

The actions of political parties have added to the power of the national government. The Constitution makes no provision for nominating presidential candidates. Over time, political parties have developed methods for nominating presidential candidates. National nominating conventions, primaries and caucuses are all the result of  rather than constitutional provisions.

Custom

George Washington served two terms of office and then returned to private life. This precedent became customary over time. Until Franklin Roosevelt’s presidency, other Presidents followed the  set by Washington. The custom became an official part of the Constitution with the addition of the 22nd amendment.

Creating the Bill of Rights

One of the stumbling blocks for ratification of the Constitution had been its lack of a Bill of Rights. Federalists had promised that a Bill of Rights would be a top priority under the new Congress.  made good on his promise and authored seventeen amendments that addressed specific freedoms. The amendments would have to obtain approval from both houses and eventually the states. Ten of the seventeen amendments written by Madison were approved.

Ratifying the Bill of Rights

The first ten amendments to the Constitution are known collectively as the . The Bill of Rights, which was added to the Constitution in 1791, includes individual freedoms of religion, speech, and the press.

Bill of Rights

[Amendment 1](http://constitutioncenter.org/constitution/the-amendments/amendment-1-freedom-of-religion-press-expression) Freedoms, Petitions, Assembly

[Amendment 2](http://constitutioncenter.org/constitution/the-amendments/amendment-2-right-to-bear-arms) Right to bear arms

[Amendment 3](Amendment%203%20) Quartering of soldiers

[Amendment 4](http://constitutioncenter.org/constitution/the-amendments/amendment-4-search-and-seizure) Search and arrest

[Amendment 5](Amendment%205) Rights in

[Amendment 6](http://constitutioncenter.org/constitution/the-amendments/amendment-6-right-to-speedy-trial-confrontation-of-witnesses) Right to a

[Amendment 7](http://constitutioncenter.org/constitution/the-amendments/amendment-7-trial-by-jury-in-civil-cases) Rights in civil cases

[Amendment 8](Amendment%208) Bail, fines, punishment

[Amendment 9](http://constitutioncenter.org/constitution/the-amendments/amendment-9-construction-of-constitution) Rights retained by the People

[Amendment 10](http://constitutioncenter.org/constitution/the-amendments/amendment-10-powers-of-the-states-and-people)  rights

Protection of Freedoms

Read [First and Second Amendments](http://www.pbs.org/tpt/constitution-usa-peter-sagal/rights/first-and-second-amendments/).

Read [Privacy and Property Rights](http://www.pbs.org/tpt/constitution-usa-peter-sagal/rights/privacy-and-property-rights/).

Read [Crime and Punishment](http://www.pbs.org/tpt/constitution-usa-peter-sagal/rights/crime-and-punishment/).

Read and/or watch [Should there be restrictions on free speech?](http://www.pbs.org/tpt/constitution-usa-peter-sagal/rights/limits-free-speech/)

Amendments 11-27

Now that you have learned about the first ten amendments, let’s examine the remaining amendments to the Constitution.

Explore [Amendments to the U.S. Constitution](https://www.wisc-online.com/learningcontent/SOC5602/SOC5602.swf).

Watch the videos below to learn more about Amendments 11-27.

Amendments Concerning Former Slaves

The (1865) freed all slaves by outlawing slavery or involuntary servitude.

The (1868) extended citizenship to blacks and prohibited states from denying the rights and privileges of citizenship to any person born or naturalized in the United States.

The  (1870) provided that the right to vote shall not be denied on account of race, color, or previous servitude.

Suffrage Amendment

Neither African-Americans nor women were treated as equal citizens by the framers; however, our amendment process has allowed our Constitution to change to right the wrongs of our past.

The  (1920) gave women the right to vote by providing that the right of citizens to vote shall not be denied on account of sex.

Review of Supreme Law of the Land

declared the supremacy of the national government or the Constitution is the supreme law of the land.