

Vote by Mail: Election Controversy in the Time of the Coronavirus Civil Conversation (CivCon) Lesson

OVERVIEW

Our pluralistic democracy is based on a set of common principles such as justice, equality, liberty. These general principles are often interpreted quite differently in specific situation by individuals. Controversial legal and policy issues, as they are discussed in the public arena, often lead to polarization, not understanding. This civil conversation activity offers an alternative. In this structured discussion method, under the guidance of a facilitator, participants are encouraged to engage intellectually with challenging materials, gain insight about their own point of view and strive for a shared understanding of issues.

OBJECTIVES

By participating in civil conversation, students:

1. Gain a deeper understanding of a controversial issue.
2. Use close reading skills to analyze a text.
3. Present text-based claims.
4. Develop speaking, listening, and analytical skills.
5. Identify common ground among differing views.

DISCUSSION FORMAT

Time: Conversations for classroom purposes should have a time limit, generally ranging from 15 to 45 minutes and an additional five minutes to reflect on the effectiveness of the conversations. The reflection time is an opportunity to ask any students who have not spoken to comment on the things they have heard. Ask them who said something that gave them a new insight that they agreed or disagreed with. Consider the length/difficult of the text(s) students will use and how experienced in student-directed discussion your students are in determining the time.

Small Groups: This discussion strategy is designed to ensure the participation of every student. Groups of 3-4 students are ideal. If you are scaffolding text for various reading levels, group students who will use the same text.

Assessment: Each student should fill in his/her own Civil Conversation Guide. Look for:
Step 2 - A B: Basic understanding of text.
Step 2 - C D: Text-based arguments.
Step 2 - E: Appropriate and compelling questions about the text.
Step 3 - A: Level of participation (should be “about the same as others”).
Step 3 - B: Answer is appropriately related to topic/issue presented in text.
Step 3 - C D: Specificity/text-based.

In addition, you may want to collect the article/text students used to assess the annotations they made in terms of connections to prior knowledge/experience, questions they had while reading, and comments they made.

PREPARATION

- Civil Conversation Guide – one per student.
- Article/Text – one per student.

PROCEDURE

A. Introduction.

Briefly overview the purpose and rationale of the Civil Conversation activity. Use the Overview above to help you.

B. Civil Conversation Guide.

Distribute a copy of the Civil Conversation Guide to each student. The Civil Conversation can be used with a news article or other readings you select. It works best for readings that present two or more perspectives on a subject. Each student should fill in his/her own guide.

C. Conducting the Activity.

Divide the class into groups of 3-4 students. You may want to have each group select a leader who will get the discussion started, ensure the group stays on-task, and finishes on time.

Determine how much time the groups have to complete the discussion. (Depending in the length of the reading and how experienced your students are in student-directed discussion.)

Review the rules of a Civil Conversation and direct the groups to follow the instructions on the Guide to get started.

Let groups know you will be circulating to listen in on their conversations and that each person in a group is expected to participate. The goal is for everyone to contribute equally to the conversation.

If necessary, remind groups of the time and urge them to move to the next steps.

D. Closure.

After the groups have completed their discussions, debrief the activity by having the class reflect on the effectiveness of the conversation:

- What did you learn from the Civil Conversation?
- What common ground did you find with other members of the group?
- Conclude the debriefing by asking all participants to suggest ways in which the conversation could be improved. If appropriate, have students add the suggestions to their list of conversation rules.

CIVIL CONVERSATION GUIDE

Name: _____


Class: _____

Title of Reading: _____

Step 1: Read.

A. Read through the entire selection without stopping to think about any particular section.

B. Re-read the selection and annotate (“talk to”) the text:

- Underline the main/most important points. You can comment on these points in the margins.
- Circle words or phrases that are unknown or confusing to you.
- Write down any questions you have in the margin labeling them with a “?”.
- Draw an  in the margin next to text that connects to something you know from outside the text. Note what the connection is, such as a news item or personal experience.

Step 2: Think about the reading to prepare for the discussion.

A. This reading is about...

B. The MAIN POINTS are:

C. In the reading, I agree with:

D. In the reading, I disagree with:

E. What are two questions about this reading that you think could be discussed? (The best questions for discussion are ones that have no simple answer and that can use the text as evidence.)

1.

2.

Step 3: Discuss and listen.

RULES FOR CIVIL CONVERSATION

1. Everyone in your group should participate in the conversation.
2. Listen carefully to what others are saying.
3. Ask clarifying questions if you do not understand a point raised.
4. Be respectful of what others are saying.
5. Refer to the text to support your ideas.

You will have _____ minutes to discuss. Your goal is to engage with each other and the text to gain insight about your own point of view while finding a shared understanding of the issue.

At the end of the reading, you will likely find at least one discussion question. Use that question to get started. If time permits, you can also discuss questions you came up with in Section E above.

If the reading does not provide discussion questions, choose questions to discuss from Section E.

Step 4: After your conversation...

- A. Compared to others in your group, did you speak? _____ Less than, _____ About the same as, _____ More than others.
- B. Note some of the ways you added to the discussion.
- C. What evidence did you use from the text to add to the discussion? Why was this evidence helpful?
- D. What did you learn about the topic from the Civil Conversation? (Be sure to reference the text!)

Vote by Mail: Election Controversy in the Time of the Coronavirus



League of Women Voters of California

The 2020 presidential primary elections took place during the spread of the COVID-19 pandemic. Safety precautions required social distancing as well as continually sanitizing polling places. This all made in-person voting hazardous. Long lines at polling places and general fears about spreading the coronavirus led at least 16 states to postpone their primaries or expand vote-by-mail systems.

Vote by mail is also known as *postal voting*. It is often called *absentee voting*. It is exactly what its name implies: a voting procedure in which ballots are mailed to voters to fill out, and the voters mail them back. The U.S. first used postal voting during the American Civil War to allow Union troops to vote while still away from home fighting the war. Since then, it has become an institution of voting practice. Five states currently hold elections entirely by mail.

It is still a primary means for U.S. military service members and Americans living overseas to vote during election time. Some people vote by mail to avoid lines at polling places on Election Day. Many people vote by mail to avoid losing time at work, especially low-income workers who cannot afford to take time off on Election Day.

States have to verify that ballots are mailed in a timely way. Most states require that ballots be received by Election Day. But some states allow ballots to be received after Election Day if they are postmarked on or before Election Day. A postmark is a stamp the U.S. Postal Service places on an envelope to officially indicate when the item was mailed.

Some states that expanded vote by mail did so by extending deadlines for postmarked ballots. Other states did so by ordering that every voter receive a mail-in ballot. California Governor Gavin Newsom, a Democrat, issued an executive order in May 2020 ordering that all of California's registered voters get vote-by-mail ballots for the November 3, 2020, general election. The purpose was to encourage but not mandate postal voting in the election.

Who Benefits From Vote by Mail?

President Donald Trump has publicly objected to states instituting expanded vote-by-mail procedures. He has argued that mail-in ballots would be used to benefit the opposing Democratic Party in the general election. In multiple tweets he has claimed, without evidence, that the general election would be "rigged" against him.

Polls do show that supporters of Democratic Party candidate Joe Biden prefer voting by mail over in-person voting. An Emerson College poll of those who plan to vote by mail showed that 76 percent prefer Joe Biden as compared to only 20 percent who prefer Donald Trump.

However, a Stanford University research team published a study in April 2020 showing postal voting tends to affect turnout (how many voters show up) for both major parties equally. And vote by mail does not increase the share of total votes for either party. Vote by mail does, however, tend to increase overall voter turnout.

Voter Fraud?

In a June 2020 speech to supporters in Phoenix, Arizona, Trump said, “The Democrats are also trying to rig the election by sending out tens of millions of mail-in ballots, using the [coronavirus] . . . as the excuse for allowing people not to go to the polls.”

He said that mail-in voting would lead to voter fraud. Voter fraud is any use of falsified ballots in an election. He speculated, “Where are these ballots going? Who’s getting them? Who is not getting them? A little section that’s Republican. Will they be stolen from mailboxes as they get put in by the mailman? Will they be taken from the mailmen and the mailwomen? Will they be forged?”

Voter fraud is extremely rare. After the 2016 presidential election, the largest investigation into voter fraud was in Tennessee. Officials there counted 40 credible allegations of voter fraud out of 4.3 million votes. The number was so low, it would not have affected the election’s outcome.

Once in office, President Trump created the Presidential Advisory Commission on Election Integrity to investigate election fraud. He had claimed that millions of undocumented immigrants voted illegally. By January 2018, the commission had found no evidence of widespread election fraud, and the president shut down the commission.

Ballot Harvesting

While always rare, voter fraud occurs more often with mail-in ballots. Richard L. Hasen, a professor of law and political science at the University of California, Irvine School of Law, says that election fraud occurs more frequently with postal voting than in-person voting, “but it is still rare.”

One of the most notorious cases of vote-by-mail fraud in recent years involved “ballot harvesting.” In 2018, a man working on the campaign of Republican congressional candidate Mark Harris in North Carolina paid several people to collect unsealed and incomplete mail-in ballots from voters. He also paid people to complete the ballots with votes for Harris and false signatures. He was caught and indicted for violations of North Carolina election law.

A ‘Brazen Power Grab’?

The California Republican Party and the Republican National Committee (RNC) sued the state of California in May 2020 to stop Gov. Newsom’s vote-by-mail executive order. They called Newsom’s order a “brazen power grab” in which Newsom attempted to single-handedly rewrite election law.

The Elections Clause in Article I of the U.S. Constitution says that state legislatures shall determine the times, places, and manner of congressional elections. And the Electors Clause in Article II says that state legislatures shall determine how the states’ electors in the Electoral College are chosen. A month after Newsom issued his order, the California legislature passed a law authorizing Newsom to issue the vote-by-mail ballots. The Republicans’ lawsuit became moot, or no longer relevant. (On November 2, 2020 — one day before Election Day — a state trial court in a different case decided that it would declare that Governor Newsom

overstepped his authority and should not do it again. The court’s decision did not affect the California election itself.)

The state of Nevada passed its own bill in August that would provide mail-in ballots for every active voter in the state. The state’s identified 300,000 inactive voters will not receive mail-in ballots. The bill passed strictly along party lines, highlighting the partisan nature of this conflict. Democrats supported it, and Republicans opposed it. The Trump campaign, the Nevada Republican Party, and the RNC sued Nevada’s secretary of state, also a Republican, to stop her from issuing the mail-in ballots leading up to the November general election.

The basis of their claim against Nevada’s law was different than in California. Normally, Nevada election officials accept ballots that arrive up to three days after Election Day, even if the postmark is unclear. The new law leaves that provision in place. But the new law also requires election officials to count ballots that are received up to seven days after Election Day if they are postmarked by Election Day. Sixteen other states accept ballots after Election Day that are postmarked by Election Day.

Federal law states that the “electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November……” This is why general elections are always on the first Tuesday in November.

The plaintiffs argue that the new Nevada law’s counting procedure will mean some ballots could possibly be mailed after Election Day. In their complaint they say the new law “effectively extends the congressionally established Election Day.” This could easily go to the U.S. Supreme

‘Some Absentee OK’

Many view the president’s hostility to vote by mail as evidence that he is afraid postal voting will lose him the election. He proposed postponing the election itself until in-person voting can be done safely. Of course, only Congress has the power to set the date of Election Day, as the federal law in the Nevada case shows. Several congressional Republicans dismissed his idea as absurd. Some claim that the election. One Republican senator said that Trump was only joking to provoke the news media.

Trump himself does not oppose all vote by mail. In May 2020, he tweeted, “when necessary.” He is a legal resident of Florida and has praised Florida’s vote-by-mail system. In the Florida primary, he voted by mail. In August, he told reporters, “It’s actually a great thing, absentee ballots. I’m going to be voting absentee.”

As partisan as the Republican opposition to vote by mail has been, some Republicans have voiced support for postal voting. U.S. Senate Majority Whip John Thune of South Dakota criticized Trump’s many off-the-cuff complaints about vote by mail. “Mail-in voting has been used in a lot of places for a long time,” Thune told a reporter. “I think we want to assure people it’s going to work. It’s secure and if they vote that way, it’s going to count.”

Writing & Discussion

1. What are the main arguments for and against postal voting? Which arguments do you find most persuasive?
2. Why do you think vote by mail has become such a partisan issue? How could the issue be presented in less partisan ways? Use evidence from the article in your answer.
3. Imagine you are a justice on the U.S. Supreme Court in the case of President Trump against the state of Nevada. How would you decide the case? Use evidence from the article in your answer.

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