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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, & Security  |
| **Course Name** | Court Systems and Practices  |
| **Lesson/Unit Title** | Appeal and Post conviction Review |
| **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.(E) The student is expected to identify the trial process from pretrial to sentencing |
| **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. Define what an appeal is
2. Identify when an appeal can be filed
3. Propose reasons why a student’s client should win an appeal in a role-playing situation
4. Critique the arguments other students make on behalf of their clients
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| **Rationale** | An important part of the criminal justice process is the right of the convicted defendant to appeal his or her case when he or she did not receive a fair trial.An attorney will need to know how to file an effective appeal on his or her client’s behalf. |
| **Duration of Lesson** | 4 – 6 hours |
| **Word Wall/Key Vocabulary***(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* |  |
| **Materials/Specialized Equipment Needed** | * Appeals and Post conviction Review computer-based presentation
* Access to a computer with Internet access
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| **Anticipatory Set**(May include pre-assessment for prior knowledge) | Use the following scenario and questions for a class discussion or a writing assignment. *Scenario*: You are wrongfully convicted of a crime. You want a new trial. *Questions*: What do you think you and your attorney must show to the appellate court with the hope of getting a new trial or bring set free? Use the Discussion Rubric or Writing Rubric as needed for assessment. |
| **Direct Instruction \*** | 1. What is an Appeal?
	1. When defendants are found guilty of a crime in court, they have the right to appeal their case
	2. An appeal is a request to a higher court to review and change the decision of a lower court
	3. The courts the defendants appeal to are known as appellate courts
	4. In an appeal, the defendants argue that an error occurred during their trial that affected their chance of a fair trial, or their “substantial right”
	5. The appellate court will do one of the following
		1. Order a new trial
		2. Let the defendant go
		3. Uphold the original verdict
	6. If the appellate court upholds the original verdict, the defendants can continue appealing their case to higher courts
2. When Does an Appeal Occur?
	1. An appeal does not take place until the trial court enters a final judgment
	2. An appeal usually must be filed within a brief period – 7 to 10 days of the verdict
	3. Defendants may have to file a paper called “notice to appeal very soon”
		1. Technically, the appeals process can begin the day of the verdict
		2. Defendants can ask the judge to overturn the jury’s verdict
		3. If the verdict is by a judge and not a jury, defendants can ask the judge to modify or withdraw his or her verdict and order a new trial
3. What Are the Steps of the Appeal Process?
	1. The defendants file a notice of appeal
	2. The appellate court sets a schedule about when briefs are due and when oral arguments are to be made
	3. Briefs are submitted and oral arguments are made
	4. The appellate court decides after a few days, weeks, or even months
4. What Happens During an Appeal?
	1. The appeals process can take many months and go through more than one appellate court
	2. A transcript of the trial is produced
	3. The prosecution and the defense prepare briefs and respond to each other’s briefs
	4. A brief typically refers to specific parts of the trial transcript and prior court decisions related to the case
	5. There are usually three briefs in an appeal
		1. The appellant files an opening brief
		2. The respondent files a respondent brief
		3. The appellant files a reply brief
	6. After the briefs are filed, the lawyers may appear before the appellate court or the court may just make their decision based on the briefs
	7. If the attorneys do speak before the appellate court, the appearance may be quick and the discussion may be limited to specific questions
5. What Is Needed for an Appeal?
	1. Appellate court judges’ rulings are based only on the trial court record which includes
		1. A transcript of testimony
		2. Things admitted into evidence
		3. Each side’s arguments
	2. Information that each side unsuccessfully sought to introduce into evidence
	3. The appellate court will not consider evidence that the trial court did not have a chance to rule on
	4. A good attorney will have done the following during the trial:
		1. Made offers of proof by giving a summary to the judge of what the witnesses will say, in case the judge rules the testimony as inadmissible
		2. Translated gestures into words so that appellate judges who are reading the transcript can picture what the participants in the court room are doing or being asked to do
		3. Made all legitimate objections and arguments so that the trial court would have had a chance to rule on the admissibility of evidence
6. What are the Reasons for Appeal?
	1. The following are some examples on which a defendant would have grounds to appeal
		1. New evidence was discovered after the trial
		2. The jurors engaged in misconduct
		3. The judge or prosecutor committed an important legal error
		4. The judge gave the jury improper instructions
		5. Scientific evidence was not available at the time of the trial that would prove the defendant innocent
7. What Is the Philosophy of Appellate Courts?
	1. The courts have said that no one is entitled to a perfect trial, just a fair one
	2. Most errors are deemed harmless by the appellate courts
8. What Are Writs?
	1. A writ is an order from a higher court to a lower court or government official
	2. They are used when the defendants are not entitled to an appeal
	3. Defendants may not be entitled to appeal when
		1. The defense did not lodge a timely objection
		2. The matter of issue concerns something that goes beyond the trial record
		3. A final judgment has not yet occurred but the defendants need relief at once to prevent an injustice or an unnecessary expense
		4. The matter is urgent
		5. The defendants have already unsuccessfully appealed their case
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| **Guided Practice \*** | *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 \*** | 1. Completion of the Appeals and Post conviction Review Quiz. The quiz may be open-note and used as a study guide for the Appeals and Post conviction Exam.
2. Have students research actual cases where people are filing for an appeal (another option is to have students create their own for other students to use in this activity). Then have the student play the role of the defense attorney and write a brief on the client’s behalf. You may choose to have another student play the role of the state and write a respondent brief, and a separate group of students to play the role of the appellate court and evaluate the brief(s). Have the students decide to let the defendant go, give a new trial, or deny the appeal. The appellate court students must defend their decision to the instructor. Use the Debate 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:***Accommodations for Learning Differences**For reinforcement, students will put themselves in the place of a client needing a good defense attorney for a trial and an appeal. They must write out indicators of high quality attorneys that would most likely be successful. These indicators need to consist of actions these attorneys take in the trial court that will help them with a future possible appeal. Use the Writing Rubric for assessment. |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \***  | * Appeals and Postconviction Review Exam and Key
* Appeals and Postconviction Review Quiz and Key
* Debate Rubric
* Discussion Rubric
* Presentation Rubric
* Writing Rubric
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| **References/Resources/****Teacher Preparation** |  |
| **Additional Required Components** |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** |  |
| **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 cases where writs were issued and then present the details of the cases to the class. Use the Presentation 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)