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# WEDDING CAKE, SAME-SEX MARRIAGE AND DISCRIMINATION

On December 5, 2017, the U.S. Supreme Court heard the case of *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, a case about a baker who refused to sell a cake for a same-sex wedding reception because of his religious beliefs. The case began in 2012 when Charlie Craig and Dave Mullins, a same-sex couple, went to Masterpiece Cakeshop, a bakery in Lakewood, Colorado, to purchase a custom wedding cake for their wedding reception. The bakery owner, Jack Phillips, said that he would sell wedding cakes only to heterosexual couples because of his religious beliefs. The couple filed a lawsuit. A court in Colorado found that the bakery discriminated against the couple and ordered the bakery to provide for same-sex marriages. Colorado has a state law which prohibits businesses that are open to the public from discriminating based on characteristics, including sexual orientation. Mr. Phillips responded by arguing that the state's anti-discrimination law forced him to use his artistic talents to bake a cake for same-sex couples, violating his constitutional rights to free speech and religious conscience. This led to the U.S. Supreme Court taking on the case, which will likely be decided by the end of the term in June, 2018.

This lesson provides an opportunity for students to learn more about this important case and its related Constitutional principles, to reflect on their own opinions and the views of others, and to explore different points of view about the case in order to write an opinion essay of their own.

See these additional ADL resources: Lesson Plans "[What is Marriage Equality?](#)," "[Unheard Voices: Stories of LGBT History](#)" and "[Understanding Homophobia/Heterosexism and How to Be an Ally](#)" and [It's Not OK for Businesses to Discriminate in the Name of Religion](#).

**Grade Level:** grades 9–12

**Time:** 60–90 minutes (or two 45-minute class periods)

**Common Core Anchor Standards:** Reading, Writing, Speaking and Listening, Language

**Learning Objectives:**

- Students will understand the pending Supreme Court case, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*.
- Students will reflect on their own thoughts and opinions related to some of the issues in the case and will understand their classmates' points of view.
- Students will explore two different points of view about the case by reading opinion articles and will then write an opinion piece of their own.

**Material:**

- “The Masterpiece Cakeshop Case Is Not About Religious Freedom” article (*The Washington Post*, November 29, 2017, [www.nytimes.com/2017/11/29/opinion/gay-religious-freedom-cake.html](http://www.nytimes.com/2017/11/29/opinion/gay-religious-freedom-cake.html), one copy for each student)
- “How Not to Advance Gay Marriage” article (*The Washington Post*, December 4, 2017, [www.nytimes.com/2017/12/04/opinion/gay-marriage-cake-case.html](http://www.nytimes.com/2017/12/04/opinion/gay-marriage-cake-case.html), one copy for each student)
- 5 Signs prepared in advance with the following words: STRONGLY DISAGREE, DISAGREE, IN BETWEEN/NOT SURE, DISAGREE and STRONGLY DISAGREE
- [Notes on Reading 1](#) (one copy for each student)
- [Notes on Reading 2](#) (one copy for each student)
- [Opinion Essay Graphic Organizer](#) (one copy for each student)

**Compelling Question:** Do your religious beliefs give you the right to choose who you will serve and not serve?

**Vocabulary:**

Review the following vocabulary words and make sure students know their meanings. (See ADL’s “[Glossary of Education Terms](#).”)

- |                 |                   |                |                       |
|-----------------|-------------------|----------------|-----------------------|
| • adversarial   | • conservative    | • hate group   | • pluralistic         |
| • abstract      | • Constitution    | • lawsuit      | • polarized           |
| • advocates     | • degraded        | • marginalized | • populist            |
| • amicus brief  | • dehumanizing    | • mortified    | • religious exemption |
| • coercion      | • discriminate    | • neighborly   | • religious freedom   |
| • compel        | • fervently       | • op-ed        | • Supreme Court       |
| • confrontation | • free expression | • persuasion   | • transgender         |

**INFORMATION SHARING**

1. Ask students: *Have you heard about the pending Supreme Court case involving a same-sex couple and wedding cake? What do you know about what happened?*
2. After students share what they know, provide some or all of the following background information:
  - On December 5, 2017, the U.S. Supreme Court heard arguments in the case, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, a case about a business refusing to provide a custom wedding cake for a same sex marriage ceremony because of the owner’s religious beliefs. The U.S. Supreme Court will likely have a decision by the end of the term in June, 2018.
  - The case began in 2012 when Jack Phillips, a baker and owner of the Masterpiece Cakeshop in Lakewood, Colorado, refused to create a cake for the wedding reception of David Mullins and Charlie Craig, who went to his shop to order a custom wedding cake for their upcoming reception. Mullins and Craig, a same-sex couple, were planning to get married in Massachusetts and then

return to Colorado, where they lived, to celebrate with family and friends. At that time, Colorado did not recognize same-sex marriage.

(In 2014, the state of Colorado began recognizing same-sex marriage and then in 2015, the U.S. Supreme Court ruled that marriage is a fundamental right that extends to same-sex couples in every state.)

- Mr. Phillips, a baker and owner of the shop, refused to serve the couple, telling them that he did not create wedding cakes for same-sex marriages due to his religious beliefs. He told the couple they could purchase other baked goods in the store. Craig and Mullins left the store without discussing details of the cake design. They then filed a complaint with the Colorado Civil Rights Commission under the state's anti-discrimination law. This law prohibits businesses open to the public (also known as "public accommodations") from discriminating against their customers on the basis of race, religion, gender, disability, creed, color, sex, sexual orientation or national origin. The Commission found that the bakery violated the law.

This resulted in a lawsuit in Colorado state court. The case was decided in favor of the couple and the cake shop was ordered not only to provide cakes to same-sex marriages, but to "change its company policies, provide 'comprehensive staff training' regarding public accommodations discrimination, and provide quarterly reports for the next two years regarding steps it has taken to come into compliance and whether it has turned away any prospective customers."

- Mr. Phillips had argued that the state's anti-discrimination law forced him to use his artistic talents to bake a cake for same-sex couples and violated his constitutional rights to free speech and religious conscience. The bakery then asked for review of the state ruling by the U.S. Supreme Court, which agreed to hear the case. The question before the U.S. Supreme Court is: does the U.S. Constitution provide the right to deny services in violation of state anti-discrimination laws that apply to public accommodations, like the Masterpiece Cakeshop?
3. After sharing some basic background information, ask students: *What did you learn that you didn't know before? What surprised you? What more do you want to know?*
  4. Before moving to the next activity, define the term "**discrimination**." If you have already discussed what discrimination is, review the term. If not, ask students: *What is discrimination? How would you define discrimination?* Elicit a definition as follows and write it on the board/smart board.

**Discrimination** is the denial of justice and fair treatment by both individuals and institutions in many arenas, including employment, education, housing, banking and political rights. Discrimination is an action that can follow prejudicial thinking.

## HERE I STAND

1. Explain to students that they are going to do an activity where they listen to some statements related to this U.S. Supreme Court case and will then consider to what extent they agree or disagree with each statement. Students will indicate their opinion about each statement by positioning themselves along an imaginary line, depending upon how strongly they agree or disagree with each of the statements.
2. Select a large open space and indicate the position of an imaginary line with the farthest right point representing a STRONGLY AGREE response and the farthest left point a STRONGLY DISAGREE response. In between, place AGREE, IN BETWEEN/NOT SURE, AND DISAGREE along the continuum. (Hang up signs with these words on the wall in advance if possible).
3. Read some/all of the statements below—one at a time—requesting that students take a minute to decide where they stand in the continuum and have them move silently to that place and observe

where others choose to stand. Following each statement, after everyone has chosen their spot, have students spend 2–3 minutes talking among themselves (in the groups that formed after choosing where to stand) about why they are standing where they are. If time permits, ask a few students to share their thoughts about where they are positioned or summarize common themes from their small group discussions.

- If a store owner has a religious issue with a person or group, they shouldn't have to do business with them.
  - It is always wrong to discriminate against people.
  - If a same-sex couple wants a wedding cake, they should go to stores/businesses that take their money and leave those that don't alone.
  - Since we have laws that prohibit discrimination, there really shouldn't be any discrimination.
  - Discriminating against one group of people on religious grounds could open the door to more discrimination of other groups.
  - I think that sometimes people could use their religion and religious freedom to discriminate against others.
  - If people feel that they are targets of discrimination in a place of business, they should try to solve it themselves.
4. After the activity, lead a whole group discussion with the following questions:
- How did you make the decision about where to position yourself?
  - Did you base your stance on opinion, facts or something else? Please explain.
  - Were some statements easier for you to decide where to move and some more difficult? How so?
  - Did you ever want to change your position when you saw you did not agree with a majority of the group, or after hearing others' points of view?
  - Did this activity cause you to change your point of view about something or make you feel more strongly about your position? Please explain.

## READING ACTIVITY

1. Distribute to each student the two opinion articles, "[The Masterpiece Cakeshop Case Is Not About Religious Freedom](#)" and "[How Not to Advance Gay Marriage](#)."
2. Explain to students that these opinion articles are both from the same publication (*The New York Times*) and reflect different points of view about the case. Explain to students that they are going to read each of the articles and take notes on both.
3. Distribute to each student the handouts, [Notes on Reading 1](#) and [Notes on Reading 2](#). Instruct students to complete the handouts as they read the articles. Give students 20–30 minutes for this task.
4. After reading and taking notes, bring the class back together and have a few students share their thoughts about each of the articles.

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**NOTE:** As an alternative to students each reading both articles and to save time, divide the students into two groups and ask half the class to read one article and the other half to read the other article.

When finished, students will pair up so that one person in each pair read a different essay. They will then share their notes on the article they read with each other.

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5. Engage students in a class discussion using the following questions:

- What did you learn about the case that you didn't know before?
- Did one of the articles and points of view resonate more than the other with you? How so?
- Was your thinking challenged by either of the essays? How so?
- Did you change your opinion based on what you read in one or both of the essays? Please explain.
- What are your overall thoughts and feelings about this case?

### CLOSING

Have students do a go-round where they complete this sentence in relation to any aspect of the U.S. Supreme Court Case discussed in today's lesson:

I used to think \_\_\_\_\_ and now I think \_\_\_\_\_.

[NOTE: You can also let students know it's okay to state that they think/feel the same way they did before.]

### HOMEWORK WRITING ACTIVITY

As a homework assignment or a longer-term project, have students incorporate what they learned into an opinion essay that reflects their points of view about this case. They can use the [Opinion Essay Graphic Organizer](#) to organize their thoughts and ideas.

### ADDITIONAL READING AND RESOURCES

- [“Justices to Hear Case on Religious Objections to Same-Sex Marriage”](#) (*The New York Times*, June 26, 2017)
- [“No matter how the Masterpiece Cakeshop case is decided, gay rights win”](#) (*The Washington Post*, December 6, 2017)
- [Speech, religion and bias all weighed in Masterpiece Cakeshop case](#) (American Bar Association, November 2017)
- [Supreme Court Facts](#) (History.com)
- [“Supreme Court hears same-sex marriage cake case”](#) (CNN, December 5, 2017)
- [Understanding Masterpiece Cakeshop v. Colorado Civil Rights Commission](#) (Movement Advancement Project)
- [“Why wedding cakes are at the center of the Supreme Court’s next big case on LGBTQ rights”](#) (Vox, December 5, 2017)

## COMMON CORE ANCHOR STANDARDS

Content Area/Standard
<b>Reading</b>
Standard 1: Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.
Standard 2: Determine central ideas or themes of a text and analyze their development; summarize the key support details and ideas.
Standard 6: Assess how point of view or purpose shapes the content and style of a text.
Standard 9: Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.
<b>Writing</b>
Standard 1: Write arguments to support claims in an analysis of substantive topics or texts using valid reasoning and relevant and sufficient evidence.
Standard 5: Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach.
<b>Speaking and Listening</b>
Standard 1: Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively.
Standard 2: Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development and style are appropriate to task, purpose and audience.
<b>Language</b>
Standard 5: Demonstrate understanding of figurative language, word relationships and nuances in word meanings.
Standard 6: Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when encountering an unknown term important to comprehension or expression.

## **NOTES ON READING 1**

### **“The Masterpiece Cakeshop Case is Not about Religious Freedom”**

1. What is the main point of the writer’s argument?
  
  
  
  
  
  
  
  
  
  
2. What is the writer’s perspective or point of view?
  
  
  
  
  
  
  
  
  
  
3. What evidence and supporting details did the writer provide to make their argument?
  
  
  
  
  
  
  
  
  
  
4. What about this article do you agree with?
  
  
  
  
  
  
  
  
  
  
5. What about this article do you disagree with?





# OPINION ESSAY GRAPHIC ORGANIZER

## Paragraph 1: INTRODUCTION

Attention-grabbing opening:

Background of Issue:

My position *(may include counter-argument)*:

## Paragraph 2: Reason #1

Supporting Evidence:

- ✓
- ✓
- ✓

## Paragraph 3: Reason #2

Supporting Evidence:

- ✓
- ✓
- ✓

## Paragraph 4: Reason #3

Supporting Evidence:

- ✓
- ✓
- ✓

## Paragraph 5: CONCLUSION

Restate opinion:

Summarize your three reasons:

State your “call to action” or summary position: