

# Are Voter ID Laws Democratic?: Teaching Deliberation for Informed Citizens

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The 2016 presidential election was the first since the passage of the 1965 Voting Rights Act in which full voting protections were not in place for historically marginalized voters. This shift was largely due to a 5–4 decision in *Shelby v. Holder* (2013) in which the Supreme Court ruled that states with a history of voter discrimination no longer needed federal approval to change voting laws.<sup>1</sup> One of the most consequential results of that ruling has been the passage by state legislatures of voter identification (i.e., voter ID) laws that require citizens to present specific types of identification to cast a ballot on Election Day.

Since 2011, Republican politicians and political groups in 16 states have successfully led the push to either adopt new voter ID laws or make existing laws stricter.<sup>2</sup> Many Republicans argue that these laws will safeguard democracy by preventing voter fraud; however, many Democrats and other political groups say that the underlying purpose of these laws is to suppress the vote of historically marginalized groups. These debates around voter ID laws can be used to inspire student citizens to investigate and deliberate the compelling question, *Are voter ID laws democratic?*

## An Emerging Political Controversy

Voter ID laws are not new. South Carolina was the first state to require voters to show some form of identification (no photo was required) to cast a ballot in 1950.<sup>3</sup> Since then, 34 states have passed some type of voter ID law,<sup>4</sup> but new iterations are often stricter. The general concept of having citizens present a photo identification to vote was deemed constitutional by the Supreme

Court in *Crawford v. Marion County Board of Elections*.<sup>5</sup> However, some iterations of these laws—most notably in Texas and North Carolina—were deemed unconstitutional and the states were forced to either amend the law or delay their implementation until after the 2016 election.<sup>6</sup>

If students read the quotes in Table 1, they would rightly conclude that the purposes and effects of voter ID laws have been controversial and polarizing in the states that have debated, passed, and enforced them. Governor Abbott of Texas argues that the laws are needed to curb voter fraud.<sup>7</sup> However, critics like Myrna Perez of the Brennan Center for Justice contend that these bills are designed to disenfranchise poor and minority voters<sup>8</sup> and that the costs associated with voter ID laws are disproportionate to the low number of in-person voter fraud cases the law would prevent.<sup>9</sup> Republican State House Leader Mike Turzai has even stated that voter ID laws could deliver Republican candidates electoral results.<sup>10</sup> What are students to make of these competing claims?

While voter ID legislation might have impacted the 2016 presidential election,<sup>11</sup> research to-date has been inconclusive. Some researchers did find that the laws reduced minority voter turnout,<sup>12</sup> though another researcher contended that black voter turnout has increased since the implementation of Georgia's voter ID law.<sup>13</sup> Other researchers claim that

Table 1. **Competing Claims on Voter ID Purposes and Effects**

*Texas passed the most restrictive photo ID law in the country — a law the legislators knew would hurt minority voting rights....*

—Myrna Perez, Deputy Director  
Brennan Center for Justice, April  
10, 2017

*The reality that votes are illegally cast and that ID can be used to prevent those legally cast votes has been established.*

—Governor Greg Abbott (R-TX)  
January 21, 2013

*Voter ID, which is going to allow Governor [Mitt] Romney to win the state of Pennsylvania, done.*

—State House Republican Leader  
Mike Turzai (R-PA)  
June 23, 2012

voter ID laws have minimal impact on a person's likelihood to vote;<sup>14</sup> but questions remain as to whether even minor suppression of voters can swing close elections. These laws have certainly had some impact by increasing the cost to vote for citizens who lack the mandated identification forms. Reporters have extensively documented the challenges that people (some of whom have been voting for years and possess voter registration cards) have faced obtaining required identification.<sup>15</sup> Even if we do not yet know the degree to which voter ID laws deter citizens, debates have focused on whether people should have to bear additional financial and time costs to cast their votes. High school students are likely to be interested in this particular topic because they will soon be eligible to vote, and young and minority citizens are the largest demographic groups who lack required IDs.<sup>16</sup>

### Teaching Students to Deliberate on Voter ID

Students often learn primarily about voting issues through disenfranchisement, suffrage movements, or low voter turnout, but voter fraud is only marginally present in most state standards. Courses in U.S. history or government studying nineteenth-century Tammany Hall patronage and vote buying or the 2000 Florida recount, might incite discussions of voter integrity. The disenfranchisement of women, African Americans through Jim Crow-era voting laws (e.g., literacy tests, poll taxes, grandfather clause), and historically marginalized groups including Chinese Americans, Latinx citizens, and Indigenous peoples, among others, should be addressed alongside the movements for full voting rights. It is also critical for social studies educators to address contemporary voting issues including gerrymandering and felon voting rights. In modern day Alabama, election officials have been accused of suppressing votes by closing driver's license offices and polling places based in predominantly black areas, pushing

Table 2. **Compelling and Supporting Questions**

<b>Compelling Question</b>	Are voter ID laws democratic?
<b>Supporting Question</b>	What are voter ID laws and in what ways do they differ? What are the political arguments for and against voter ID laws? How do voter ID laws impact voter turnout? How do voter ID laws impact different demographic groups? Do voter ID laws prevent fraud?

for proof-of-citizenship requirements, and purging voter rolls, among other tactics.<sup>17</sup> We believe all these issues deserve attention, but in this article we will focus specifically on voter ID laws.

In the following inquiry activity, we draw on the four dimensions of the C3 Framework's Inquiry Arc to provide teachers the questions, documents, and data they can use to engage in deliberations on the issue of voter IDs. As previously mentioned, the topic should be of particular interest to students, the largest age group that does not possess a "confirmed ID."<sup>18</sup> Teachers should adapt this lesson based on students' knowledge and familiarity with these issues. For example, Latinx or African American students may have some familiarity with the topic; inviting family or community activists into the class could deepen the experience.

### Compelling and Supporting Questions on Voter ID (C3 Framework, Dimension 1)

Social studies teachers use compelling questions to frame inquiries that are "both intriguing to students and intellectually honest."<sup>19</sup> The question *Are voter ID laws democratic?* can be explored through the lesson—explicitly at the beginning and end—and should encourage students to explore definitions of *democracy* and then apply them to voter ID laws. Some students might initially contend that the laws are democratic because they were passed by elected state representatives. Other students might counter that democracy requires laws that are just and fair to all people. These initial disagreements will be deepened as students are challenged to answer an array of supporting ques-

tions (see Table 2).

### Voter ID Sources, Evidence, and Deliberation (C3 Framework Dimensions 2 and 3)

Teaching about voter ID laws fits well in U.S. government and civics courses not only because of the focus on laws and voting rights, but because deliberating on controversial public issues is a democratic skill in which students need practice. Engaging in deliberations should move students from considering, *what is best for me?* or *what do I want?* to questions like *what should we do about this?* or *which option seems best for society as a whole, given varied views and perspectives?*<sup>20</sup> In this lesson, we present contrasting political (Handout A) and legal opinions (Handout B) on voter ID laws to provide students multiple perspectives. Students then analyze broadly who might be impacted by these laws through demographic data (Handout C) and the impact on citizens (Handout D). They then discuss and deliberate their findings in cooperative groups. (Analyze/Evaluate public policy: D2.Civ.13.6-8. and D2.Civ.13.9-12; Assess/Analyze Specific Laws: D2.Civ.12.6-8. and D2.Civ.12.9-12.)

Both research and our classroom experiences suggest that structuring whole class discussions can help teachers lead participants to develop more positive attitudes toward conflict, demonstrate higher levels of moral reasoning and perspective-taking, and provide valuable experiences talking with classmates from different backgrounds.<sup>21</sup> For example, the Structured Academic Controversy method (which we have adapted here to align with the C3 Framework—

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# Political Perspectives

Source 1: Governor Greg Abbott (R-TX), *Texas Monthly*, 2013

We have now successfully proven the two important things that needed to be proved in court. One, and that is, the necessity for voter ID laws. We proved that by showing—in addition to the more than fifty prosecutions I’ve been involved in of voter fraud—that in the most recent election in Texas, votes were cast on behalf of more than two hundred people who were corpses. Already dead. Votes had been cast for people who are in this country and stayed illegally. The reality that votes are illegally cast and that ID can be used to prevent those legally cast votes has been established.

As a footnote here, the question arises, how many cases of voter fraud have to be proved in order for this law to be constitutional? And there’s already an answer for that, issued by the United States Supreme Court. And the answer is zero. Because in the Indiana case that the Supreme Court upheld, the court noted that Indiana had shown no instances of voter fraud that could have been prevented by the voter ID law they passed. Nevertheless, the court said that because of the specter of voter fraud, because of concerns about the integrity of the ballot box, Indiana had a right to impose its voter ID law.

*Texas Monthly*, [www.texasmonthly.com/politics/greg-abbott-on-voter-id/](http://www.texasmonthly.com/politics/greg-abbott-on-voter-id/)

Source 2: Attorney General Eric Holder, League of Women Voters Convention, 2012

We are actively litigating voter ID laws passed in Texas and South Carolina because—based on each state’s own data—we determined that those laws disproportionately and adversely affect the rights of minority voters.

It is an, “undeniable fact that voter ID laws can burden some citizens’ right to vote.” Now, that’s not only my opinion—that’s a direct quote from one of my predecessors—former Attorney General Michael Mukasey—which he provided after the Supreme Court’s decision in the Indiana voter ID case. He went on to observe, and I quote again, that, “It is important for states to implement and administer voter ID laws in a way that minimizes that possibility [of a burden]. And it is important for the Department to do its part to guard against that possibility. We will not hesitate to use the tools available to us—including the Voting Rights Act—if these laws, important though they may be, are used improperly to deny the right to vote.

[www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-league-women-voters-convention](http://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-league-women-voters-convention)

# Legal Analysis

Source 3: Justin Levitt, Loyola (CA) Law School Professor, *Washington Post*, 2014

Election fraud happens. But ID laws are not aimed at the fraud you'll actually hear about. Most current ID laws (Wisconsin is a rare exception) aren't designed to stop fraud with absentee ballots (indeed, laws requiring ID at the polls push more people into the absentee system, where there are plenty of real dangers). Or vote buying. Or coercion. Or fake registration forms. Or voting from the wrong address. Or ballot box stuffing by officials in on the scam. In the 243-page document that Mississippi State Sen. Chris McDaniel filed on Monday with evidence of allegedly illegal votes in the Mississippi Republican primary, there were no allegations of the kind of fraud that ID can stop.

Instead, requirements to show ID at the polls are designed for pretty much one thing: people showing up at the polls pretending to be somebody else in order to each cast one incremental fake ballot. This is a slow, clunky way to steal an election. Which is why it rarely happens.

I've been tracking allegations of fraud for years now, including the fraud ID laws are designed to stop...

So far, I've found about 31 different incidents (some of which involve multiple ballots) since 2000, anywhere in the country.

<https://web.archive.org/web/20070622014244/http://truthaboutfraud.org/index.htm>

"A Comprehensive Investigation of Voter Impersonation Finds 31 Credible Incidents out of One Billion Ballots Cast," *The Washington Post*, [www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/](http://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/)

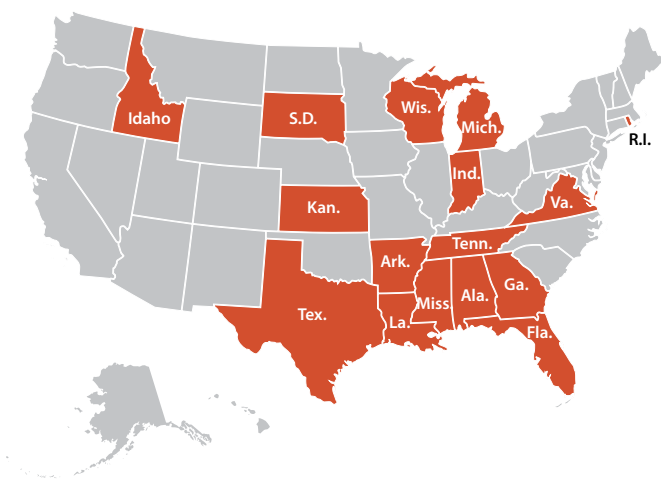
Source 4: Justice Antonin Scalia, Concurring opinion in *Crawford v. Marion County Election*, 2008

The universally applicable requirements of Indiana's voter-identification law are eminently reasonable. The burden of acquiring, possessing, and showing a free photo identification is simply not severe, because it does not "even represent a significant increase over the usual burdens of voting"... And the State's interests... are sufficient to sustain that minimal burden. That should end the matter. That the State accommodates some voters by permitting (not requiring) the casting of absentee or provisional ballots, is an indulgence—not a constitutional imperative that falls short of what is required.

Oyez, [www.oyez.org/cases/2007/07-21](http://www.oyez.org/cases/2007/07-21)

# Voter ID Breakdown by State and Demographics

Source 5: National Conference of State Legislatures, *New York Times*, 2018



Note: Other states also have voter ID laws but will accept a wider variety of documents, such as bank statements. This map does not show states whose ID laws have been struck down in court.

[www.nytimes.com/2018/06/23/us/politics/voting-rights-alabama.html](http://www.nytimes.com/2018/06/23/us/politics/voting-rights-alabama.html)

Source 6: Vanessa M. Perez, Ph. D., 2015

Table 1: Individuals with Confirmed ID by Ethnicity

	PERCENTAGE OF POPULATION	CONFIRMED ID	NO CONFIRMED ID
White	71%	95%	5%
Black	12%	87%	13%
Hispanic	11%	90%	10%
Other	6%	89%	11%
Don't Know	1%	49%	51%
<b>Total</b>	<b>100%</b>	<b>93%</b>	<b>7%</b>

Table 3: Individuals with Confirmed ID by Age Group

AGE GROUP	PERCENTAGE OF POPULATION	CONFIRMED ID	NO CONFIRMED ID
17-20	4%	85%	15%
21-24	6%	89%	11%
25-29	10%	94%	6%
30-34	8%	92%	8%
35-39	7%	93%	7%
40-44	9%	95%	5%
45-49	7%	94%	6%
50-54	10%	93%	7%
55-59	10%	94%	6%
60-64	8%	95%	5%
65-69	7%	96%	4%
70-74	5%	95%	5%
75+	6%	92%	8%
Age missing	1%	92%	8%
<b>Total</b>	<b>100%</b>	<b>93%</b>	<b>7%</b>

Project Vote, Research Memo, "Americans with Photo ID: A Breakdown of Demographic Characteristics," Vanessa M. Perez, Ph. D., 2015 (CC BY-NC-SA).

# Citizen Impact

Source 7: Brennan Center for Justice, 2014

1. Jesus Garcia was born in Texas and lives in Mercedes. He was unable to vote with his driver's license, which expired about a year ago. He went to the Weslaco Department of Public Safety (DPS) office twice and both times was unable to get an ID. His birth certificate was stolen and he does not have a copy. He wants to get identification, but to get both a replacement birth certificate and a new ID would be more than \$30 combined. He is working a lot of hours, but money is tight. With rent, water, electricity, and everything else, Mr. Garcia is not sure he will be able to afford those documents, much less before the election.

Even if he does have the money, he will need to go through the whole process of getting the documents and going to the office again, when he has already tried to vote once and gone to a DPS office twice. Mr. Garcia thinks it is unfair that he cannot vote with the documents he has. He was born here and he has an ID with his picture on it; it's just expired. He has a voter registration card, and voted in past elections.

[www.brennancenter.org/blog/voters-turned-away-because-texas-photo-id-law](http://www.brennancenter.org/blog/voters-turned-away-because-texas-photo-id-law)

# Structured Academic Controversy

**Compelling Question:**

Group Members FOR:

1. \_\_\_\_\_ 2. \_\_\_\_\_

Group Members AGAINST:

1. \_\_\_\_\_ 2. \_\_\_\_\_

**Evaluating Sources and Using Evidence**

**Sources, Positions, and Evidence:**

**Deliberation**

Main Arguments FOR:

1. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Main Argument(s) AGAINST:

1. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Taking Informed Action**

**Communicate Conclusions:**

**Take Informed Action:**

Handout E) can encourage students to suspend their personal judgment and work cooperatively.<sup>22</sup> Actively participating in the activity requires students to evaluate sources and use evidence to determine the primary arguments for and against laws like voter ID, and then openly discuss and deliberate. While teachers can structure discussions for different purposes using various methods and classroom setups, we believe the Structured Academic Controversy model can prepare students for a whole class deliberation around the compelling question. Teachers should be sure to develop discussion norms that include respect for different opinions, active listening without interruption, providing evidence and rationale for statements, and sharing the floor equally with classmates.<sup>23</sup> Teachers should be attentive to the racial dynamics in the classroom, including teacher-to-student and student-to-student interactions, so as to ensure students challenge each others' ideas in ways that are respectful and constructive.

### Communicating Conclusions and Taking Informed Action on Voter ID (C3 Framework, Dimension 4)

Once students have explored the sources and deliberated on the impact and democratic nature of voter ID laws, they will be able to formulate an informed position, using evidence, in regards to the compelling question. Students may argue that voter ID laws are undemocratic because they suppress the vote for historically marginalized groups, or they may argue that the laws are democratic in some respects (e.g., preventing fraud) and flawed in intent or application (e.g., disproportionately impacting certain citizens). Regardless of the position students take, they must use evidence to support their arguments. Summative assessments may include creating a podcast that summarizes the issue or participating in the Structured Academic Controversy deliberation.

A critical next step for students is to explore how they might take action as

participatory and justice-oriented citizens. Teachers might brainstorm ways citizens could take informed action. For example, students could email legislative representatives at the state or federal level and publicize their stances on voter ID. Because there are many ways to make change, we recommend teachers listen to students and support them in pursuing informed action that is democratic and just.

### Conclusion

Voter ID is a current event upon which students should investigate, deliberate, and communicate. If we are to help students grow as informed and active citizens then we must offer opportunities to engage in deliberations on controversial public issues and take informed action. Students are accustomed to learning about electoral integrity and disenfranchisement in history, but investigating voter ID laws reminds them that these issues are enduring, and just policies require a continued commitment to democracy for all. 🌐

### Notes

1. Brennan Center for Justice, "Election 2016: Restrictive Voting Laws by the Numbers" (New York, N.Y., 2016), [www.brennancenter.org/analysis/election-2016-restrictive-voting-laws-numbers](http://www.brennancenter.org/analysis/election-2016-restrictive-voting-laws-numbers).
2. National Conference of State Legislators, "History of Voter ID," (Washington D.C.: NCSL, May 31, 2017), [www.ncsl.org/research/elections-and-campaigns/voter-id-history.aspx](http://www.ncsl.org/research/elections-and-campaigns/voter-id-history.aspx).
3. Suevon Lee and Sarah Smith, "Everything You've Ever Wanted to Know About Voter ID Laws," *Pro Publica* (March 9, 2016) [www.propublica.org/article/everything-youve-ever-wanted-to-know-about-voter-id-laws](http://www.propublica.org/article/everything-youve-ever-wanted-to-know-about-voter-id-laws).
4. National Conference of State Legislators, "History of Voter ID."
5. *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008).
6. Associated Press, "Appeals Court: Texas Voter ID Law Discriminates against Minorities, Poor," (July 20, 2016) [www.cbsnews.com/news/appeals-court-texas-voter-id-law-discriminates-against-minorities-poor/](http://www.cbsnews.com/news/appeals-court-texas-voter-id-law-discriminates-against-minorities-poor/).
7. Jake Silverstein, "Greg Abbott on Voter ID" [Interview Transcript], *Texas Monthly* (2013), [www.texasmonthly.com/politics/greg-abbott-on-voter-id/](http://www.texasmonthly.com/politics/greg-abbott-on-voter-id/).
8. Editors, "Weekend Read: Criminalizing the Vote," (Montgomery, Ala., Southern Poverty Law Center, April 15, 2017), [www.splcenter.org/news/2017/04/15/weekend-read-criminalizing-vote](http://www.splcenter.org/news/2017/04/15/weekend-read-criminalizing-vote)
9. Brennan Center for Justice, "Debunking the Voter Fraud Myth," (New York, N.Y., January 2017), [www.brennancenter.org/analysis/debunking-voter-fraud-myth](http://www.brennancenter.org/analysis/debunking-voter-fraud-myth).

10. Laura Olson, "Turzai's Voter ID Remark Draws Criticism," *Pittsburgh Post-Gazette* (June 25, 2012), [www.post-gazette.com/news/state/2012/06/26/Turzai-s-voter-id-remark-draws-criticism/stories/201206260143](http://www.post-gazette.com/news/state/2012/06/26/Turzai-s-voter-id-remark-draws-criticism/stories/201206260143).
11. Michelle Ye Hee Lee, "Do Voter ID Laws Help or Hurt Voter Turnout?" *The Washington Post* (May 30, 2017), [www.washingtonpost.com/news/fact-checker/wp/2017/05/30/do-voter-id-laws-help-or-hurt-voter-turnout/?utm\\_term=.a643c3e8dd4b](http://www.washingtonpost.com/news/fact-checker/wp/2017/05/30/do-voter-id-laws-help-or-hurt-voter-turnout/?utm_term=.a643c3e8dd4b).
12. Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nielson, "Voter Identification Laws and the Suppression of Minority Votes," *The Journal of Politics* 79, no. 2 (April 2017) 363-379.
13. June Andra Gillespie, "Voter Identification and Black Voter Turnout: An Examination of Black Voter Turnout Patterns in Georgia, 2000–2014," *Phylon* 52, no. 2 (2015). 43–67.
14. Jason D. Mycoff, Michael W. Wagner, and David C. Wilson, "The Empirical Effects of Voter-ID Laws: Present or Absent?" *Political Science & Politics* 42, no. 1 (January 2009): 121–126.
15. Brennan Center for Justice, "Voters Turned Away Because of Texas Photo ID Law," (New York, N.Y., 2014), [www.brennancenter.org/blog/voters-turned-away-because-texas-photo-id-law](http://www.brennancenter.org/blog/voters-turned-away-because-texas-photo-id-law).
16. Vanessa M. Perez, "Americans with Photo ID: A Breakdown of Demographic Characteristics," (February 2015), [www.projectvote.org](http://www.projectvote.org).
17. Maggie Astor, "Seven Ways Alabama Has Made It Harder to Vote," *The New York Times* (June 23, 2018), [www.nytimes.com/2018/06/23/us/politics/voting-rights-alabama.html](http://www.nytimes.com/2018/06/23/us/politics/voting-rights-alabama.html).
18. Perez, "Americans with Photo ID: A Breakdown of Demographic Characteristics."
19. National Council for the Social Studies (NCSS), *The College, Career, and Civic Life (C3) Framework for Social Studies State Standards: Guidance for Enhancing the Rigor of K-12 Civics, Economics, Geography, and History* (Silver Spring, Md.: NCSS, 2013).
20. Diana E. Hess and Paula McAvoy, *The Political Classroom: Evidence and Ethics in Democratic Education* (New York, N.Y.: Routledge, 2015).
21. Patricia G. Avery, "Civic Education in the Preparation of Social Studies Teachers: Research-Based Recommendations for the Improvement of Teaching Methods Courses: Clearinghouse for Social Studies/Social Science Ed," in *ERIC Clearinghouse for Social Studies/Social Science Education* (Bloomington, Ind.: 2003).
22. Jeanne T. Chowning and Paula Fraser, "An Ethics Primer," (Seattle, Wash.: Northwest Association of Biomedical Research, 2007).
23. Diana E. Hess, "Discussion in Social Studies: Is it Worth the Trouble?" *Social Education* 68, no. 2 (March 2004). 151-157.

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