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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, and Security |
| **Course Name** | Court Systems and Practices |
| **Lesson/Unit Title** | Plea Bargaining |
| **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.(D)The student is expected to explore the impact of pleas and plea bargaining on the trial proceedings(E) The student is expected to identify the trial process from pretrial to sentencing(F) The student is expected to evaluate a simulated criminal case. |
| **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 terms associated with the lesson
2. Explain the purpose of our plea-bargaining system
3. Analyze plea bargaining situations
4. Discuss the pros and cons of plea bargaining
5. Role-play plea bargaining scenarios
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| **Rationale** | Plea bargaining is used to assist overcrowded court dockets, district attorneys, and defendants. Understanding the function and process of plea bargaining is essential to persons pursuing careers in law and public safety. |
| **Duration of Lesson** | 2 to 4 hours |
| **Word Wall/Key Vocabulary***(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* |  |
| **Materials/Specialized Equipment Needed** | * Plea Bargaining computer-based presentation
* Plea Bargain Key Terms
* Defense Scenarios handout
* Prosecutor Scenarios handout
* Poster Board
* Markers
* Computer with Internet access
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| **Anticipatory Set**(May include pre-assessment for prior knowledge) | Do an Internet search for the following: Man accepts plea bargain in intoxicated manslaughter case. Read the article about Plea Bargaining. Have students write short essay answers to the following questions, and conduct a guided discussion:* Why would a defendant plead “guilty” to a crime?
* Why would the state offer a plea bargain to a defendant?

Use the Discussion Rubric for assessment. |
| **Direct Instruction \*** | 1. Key Terms
	1. Plea – an accused’s response in court to the charges made against him or her
	2. Plea Bargain – formal agreements between the prosecution and defense concerning the defendant’s offering of a guilty plea in exchange for some form of sentencing leniency.
	3. Guilty Plea – a defendant’s formal affirmation of guilt to the charges contained in a complaint, information, or indictment, in which the defendant claims that he or she committed the offenses listed
	4. Not Guilty Plea – a defendant’s formal answer to the charges in a complaint, information, or indictment, in which the defendant states that he or she has not committed the offense(s) as charged
	5. Nolo Contendere – a plea of “no contest” to charges
	6. No Contest – same as nolo contendere in that the defendant does not contest the charges. The effect is the same as a guilty plea, except the plea cannot be used against the defendant as an admission in any subsequent civil proceeding arising out of the same offense.
	7. Prosecutorial Discretion – the decision-making power of prosecutors based upon the wide range of choices available to them in the handling of criminal defendants, the scheduling of cases for trial, and the acceptance of bargained pleas
	8. Arraignment – the official proceeding in which a defendant is formally confronted by criminal charges and enters a plea, and a trial date is established

I. Alford Plea – a guilty plea by a defendant who claims innocenceII. Purpose of Plea Bargaining* 1. For a Defendant
		1. Avoid the time involved in defending self at a trial
			1. Months before a case goes to trail
			2. Length of a trial
			3. Resets
		2. Avoid the cost of defending self at a trial
			1. Attorney’s fees
			2. Court costs
			3. Expert witnesses
		3. Risk a harsher punishment if it goes to trial
			1. Trial conviction punishments are more stringent.
			2. Judges are harsher if defendants do not accept a plea bargain agreement.
		4. Avoid publicity
			1. Newspapers
			2. Television
	2. For the State
		1. Saves time
			1. Heavy caseloads
			2. Reduces time spent in trial preparation
		2. Saves expense
			1. Investigation fees
			2. Expert testimony fees
			3. Scientific evidence costs
	3. For Both
		1. Reduces the uncertainty of going to trial
			1. Will NOT go to trial if a plea bargain is agreed upon
			2. Less stress
		2. Do not have to go to trial on every criminal case
			1. Gives parties flexibility
			2. Can decide which cases are more deserving of a trial
1. Types of Plea Bargaining
	1. Implicit Plea Bargaining
		1. An understanding between the defense counsel and the prosecutor that a guilty plea will be entered for a specific offense which carries a conventional punishment
		2. Usually somewhat less than what the maximum sentence could be
	2. Charge Reduction Bargaining
	3. An offer from the prosecutor to minimize the number and seriousness of charges against defendants in exchange for their pleas of guilty to lesser charges
	4. Also known as “charge bargaining”
2. Judicial Plea Bargaining
	1. Occurs when judges offer sentences to defendants in open court in exchange for their guilty pleas
	2. Most frequently used in petty offenses
3. Sentence Recommendation Bargaining
	1. Occurs when the prosecutor proposes a specific sentence in exchange for the defendant’s guilty plea
	2. “Take-it-or-leave-it” proposal

IV. Pros and Cons of Plea Bargaining1. Pros
	1. Reduces the uncertainties of criminal trials
		1. If the defendant received a conviction at trial, it is more difficult to predict what sentence would be imposed.
		2. Processing time is much faster with plea bargaining
	2. Fewer trials and trial delays
		1. The prosecutor does not have to convince a jury.
		2. Gives factual basis for the plea
		3. If there is insufficient evidence, the plea agreement can be rejected.
	3. More convictions
		1. Over 90% come from plea bargains
		2. Negotiated guilty pleas
	4. Reduces the cost of a trial
		1. Far less expensive than jury trials
		2. Subpoena costs
		3. Expert witness fees
2. Cons
	1. Self-incriminating nature
		1. Defendants give up their constitutional right to jury trial
		2. Give up the right to cross-exam their accusers
		3. Relinquish the right against self-incrimination
	2. Loss of judicial control
	3. Circumventing habitual offender status (chronic offenders with multiple felony convictions can avoid mandatory punishments)
	4. Sentence reductions for serious offenders
	5. Gender bias (women benefit more often)
	6. Racial discrimination (minorities discriminated against in plea bargaining)

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*For reinforcement, students will list terms and explain how each relates to plea bargaining. Use the Individual Work Rubric for assessment  |
| **Guided Practice \*** | Plea Bargaining Role Play* 1. Divide the class in half, Prosecutors vs. Defense Counsel. Those students who role-play prosecutors should receive the Prosecutors Scenarios handout. Defense counsel role-players should receive Defense Scenarios handout.
	2. Divide both groups up into small groups of three to four students. Explain that each student will role-play a plea-bargaining scenario with one other student. Allow them 10 minutes to prepare their strategies. Tell the students that each side has a handout that describes their role as a prosecutor or defense attorney. The handout includes confidential information that the other side does not have.
	3. Instruct the students to think about what facts might help them persuade the other side to agree to their proposition. For example, weak evidence may help a defense attorney to get a better plea bargain. Additionally, inform the prosecutors they do not have to plea bargain in any specific case, but they will not be able to take all four cases to trial.
	4. Pair one prosecutor with one defense attorney (if the class number is uneven, have one team made up of two defense attorneys or two prosecutors). Check for understanding of instructions.
	5. Inform the students that, although desirable, it is not necessary that they reach an agreement. Enact the role-plays simultaneously around the room. Allow approximately 15-20 minutes. Have the students report back to the large group what agreement was or was not made in each of the four cases.
	6. Have each group present their outcomes. Discuss the variety of outcomes that could be achieved in this plea-bargaining scenario. Allow approximately 15 minutes for debriefing after the role-plays.
	7. Explain to the students that negotiating a plea agreement is only the first step. The client (the defendant) must agree to it voluntarily, intelligently, and with the understanding of its consequences.
	8. Comment on the acceptability of the plea arrangements that were negotiated. Are any illegal? For example, agreeing to terms outside the penalty range permitted by law.
	9. Conclude with a discussion of whether the students agree or disagree with plea bargaining. Would plea bargaining offer advantages or serve a purpose if "resources" were not so limited? In other words, would plea bargaining still play a role if there were unlimited prosecutors, defenders, judges and courtrooms?

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| **Independent Practice/Laboratory Experience/Differentiated Activities \*** | Divide the students into four groups: prosecutor, defendant, judge, and victim/victim’s family. Have students brainstorm the pros and cons of plea bargaining from the perspective of their assigned role (prosecutor, defendant, judge, or victim/victim’s family). Have students write and/or draw those on poster board. Ask each group to present their reasons and display their poster board. *(Note: Plea bargaining is very controversial. Critics say it allows* *dangerous criminals to get off with light sentences. Others argue that the government should be forced to prove guilt beyond a reasonable doubt.)* Usethe Presentation 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:*NONE |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \***  | * Plea Bargain Quiz and Key
* Discussion Rubric
* Individual Work Rubric
* Presentation Rubric
* Research Rubric
* Role Play Rubric
* Writing Rubric

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **References/Resources/****Teacher Preparation** | Champion, Dean John, Hartley, Richard D. & Rabe, Gary A. Pearson *Criminal* *Courts: Structure, Process, & Issues.* (2nd edition) Prentice Hall, 2008.Del Carmen, Rolando V. *Criminal Procedure: Law and Practice.* (8th edition) Wadsworth, 2010.Do an Internet search for the following: Man accepts plea bargain in intoxicated manslaughter case |
| **Additional Required Components** |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** | Social Studies StandardsI. Interrelated Disciplines and Skills1. Problem-solving and decision-making skills

1.Use a variety of research and analytical tools to explore questions or issues thoroughly and fairly.2.Analyze ethical issues in historical, cultural, and social contexts. |
| **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 the following US Supreme Court cases and will analyze them by writing case briefs for both: *Brady v. United States* (1970), and *Bordenkircher v. Hayes* (1978). Use the Research 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)