

## What does “Consent of the Governed” Mean?

Prepared by: The New Jersey Center for Civic Education, Rutgers University

Grade Level: 6-8

Objectives: Students will be able to:

- Explain why consent of governed is necessary for a government’s authority to be legitimate
- Identify ways that citizens give implicit consent

Definition:

Consent is a voluntary agreement to someone else’s proposal. When your friend asks you to do something for them, you consent or agree by acknowledging in words (“Okay”) or body language (possibly a head shake or even hand shake). Parental consent is required We give explicit consent to be married, to get health care, to assume risks in potentially dangerous activities (skydiving, etc.).

Background:

“Consent of the governed” refers to the idea that a government’s legitimacy and moral right to use state power is justified and lawful only when consented, or agreed to, by the people over which that political power is exercised. Consent is fundamental to social contract accounts of political legitimacy, arising as early as Plato's *Crito* but most prominently in the 17th-century writings of Thomas Hobbes and John Locke.

Locke believed that in a state of nature, no one would have the right to govern (rule over) you, and you would not have the right to govern anyone else. According to Locke, the only way the people get the right to govern anyone else is when the people give their consent (approval/permission). People have political obligations, and that political obligation depends on freely chosen, deliberate acts of individual consent. Locke presents consent as a deliberate act that constitutes an undertaking of obligation, and he requires political consent because (a) every person is a free, equal, and sovereign individual and (b) a free, equal, and sovereign individual cannot be subject to non-natural obligations.

Locke’s focus on explicit or literal consent has been questioned over time. More often we speak of political consent as being implicit, or “participatory” consent. Plato referred to this kind of “implicit” consent in his dialogue *Crito*, when he has Socrates say that growing up he knew what the laws of his city-state were, and upon becoming an adult he chose to stay in the city-state (giving consent), so he now had an obligation to obey the laws, even if they were not convenient for him.

### Activity: Take a position:

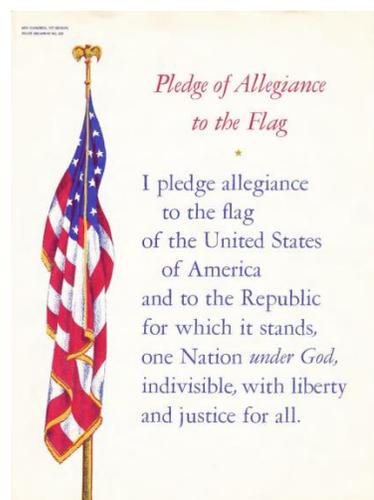
A naturalized citizen is required to take an oath of Allegiance to the United States, which is an explicit agreement or consent to be governed by the government of the United States. The principles embodied in the *Oath* are codified in [Section 337\(a\)](#) in the Immigration and Nationality Act (INA), which provides that all applicants shall take an oath that incorporates the following:

1. Support the Constitution;
2. Renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen;
3. Support and defend the Constitution and laws of the United States against all enemies, foreign and domestic;
4. Bear true faith and allegiance to the same; and
5.
  - A. Bear arms on behalf of the United States when required by the law; or
  - B. Perform noncombatant service in the Armed Forces of the United States when required by the law; or
  - C. Perform work of national importance under civilian direction when required by the law.

See: <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/naturalization-oath-of-allegiance-to-the-united-states-of-america>

### Activity: Class Discussion

- Is the Pledge of Allegiance (to the Flag), an explicit agreement or consent to be governed by the government of the United States?



- The Pledge of Allegiance is basically an oath of loyalty to the government. It has never been seen as actual consent.
- The Supreme Court in [West Virginia Board of Education v. Barnette](#) (1943) made clear that reciting the Pledge of Allegiance was a voluntary, not mandatory,

action and that under the First Amendment free speech clause, students could not be compelled to recite the Pledge of Allegiance.

- How do citizens born in the United States implicitly give their political consent to be governed by the government of the United States?
  - By using the services offered by the government
  - By adhering to the rules and laws, such as paying taxes
  - By participating in political discussions and actions (voting, writing letters to the government, meeting with elected officials)

#### Concluding Activities: Class Discussion

Have students take and defend a position about the legitimacy of a monarchy, a dictatorship, a republic and a democracy. Which are based on the consent of the people?

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