

Cook v Raimondo: What's Next?

What the case means + why student & parent activists are optimistic about winning their plea to make education a constitutional right.



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(Scroll to the end to see how you can support their efforts!)

Supreme Court: Then & Now

1973:

In *Rodriguez v San Antonio*, the court ruled that there's no right to education under the US constitution.

The decision was made 14 years after *Brown v Board* (and with **2 Nixon-appointed judges** on the court). It's largely been seen as part of the **backlash to racial integration**.



Why's today different?

Some are concerned that today's conservative-majority will repeat 1973.



BUT

2021:

Today's "establishment Republicans" are concerned about low civic engagement



Fun fact: Justice Neil Gorsuch has spoken at the annual conference of the US Courts of the Ninth Circuit about the importance of civic education.

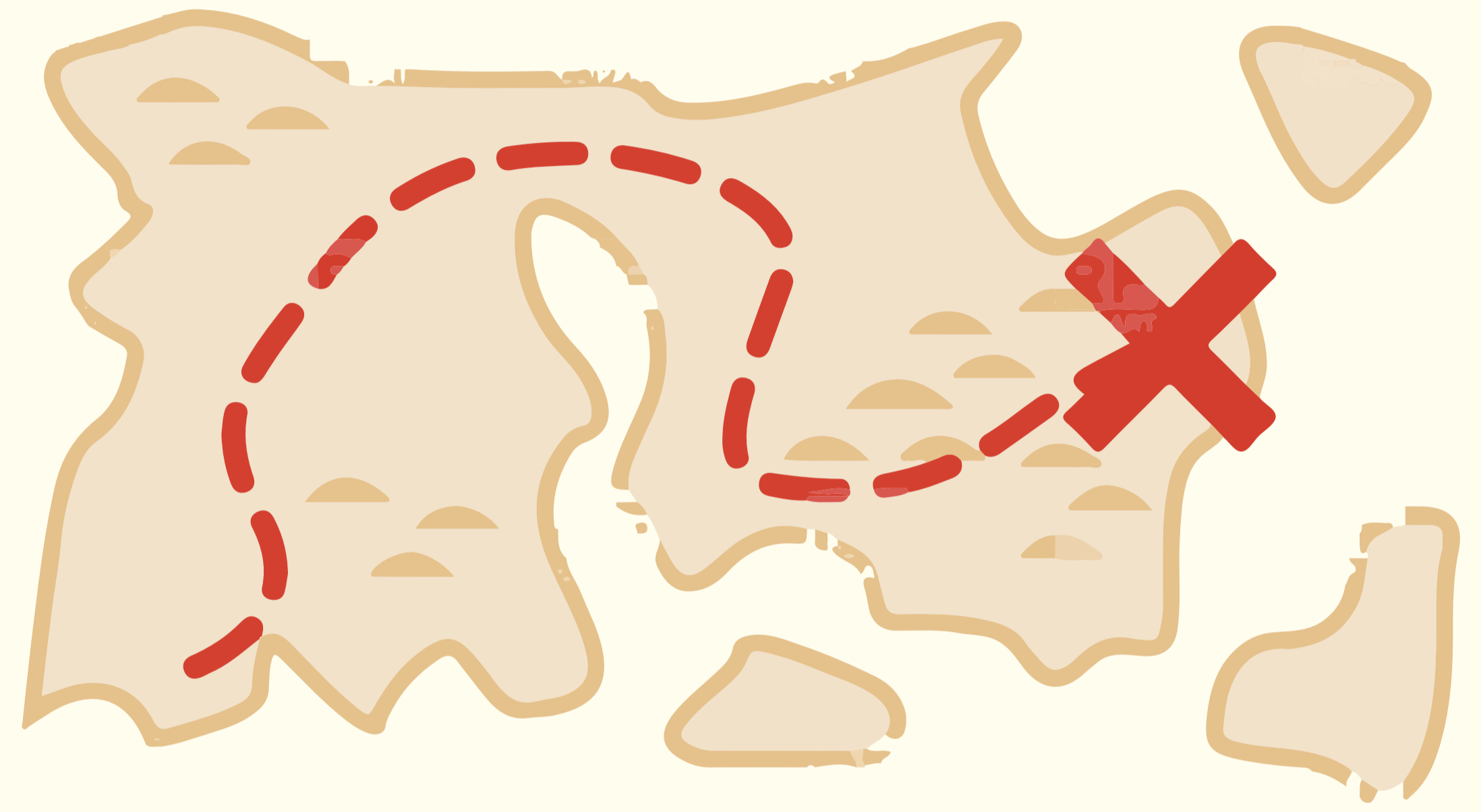
and have expressed strong interest in teaching students about how government works.

Roadmap to the First Circuit

October, 2020

Judge Smith, the US District Court for Rhode Island, dismissed *Cook v Raimondo*.

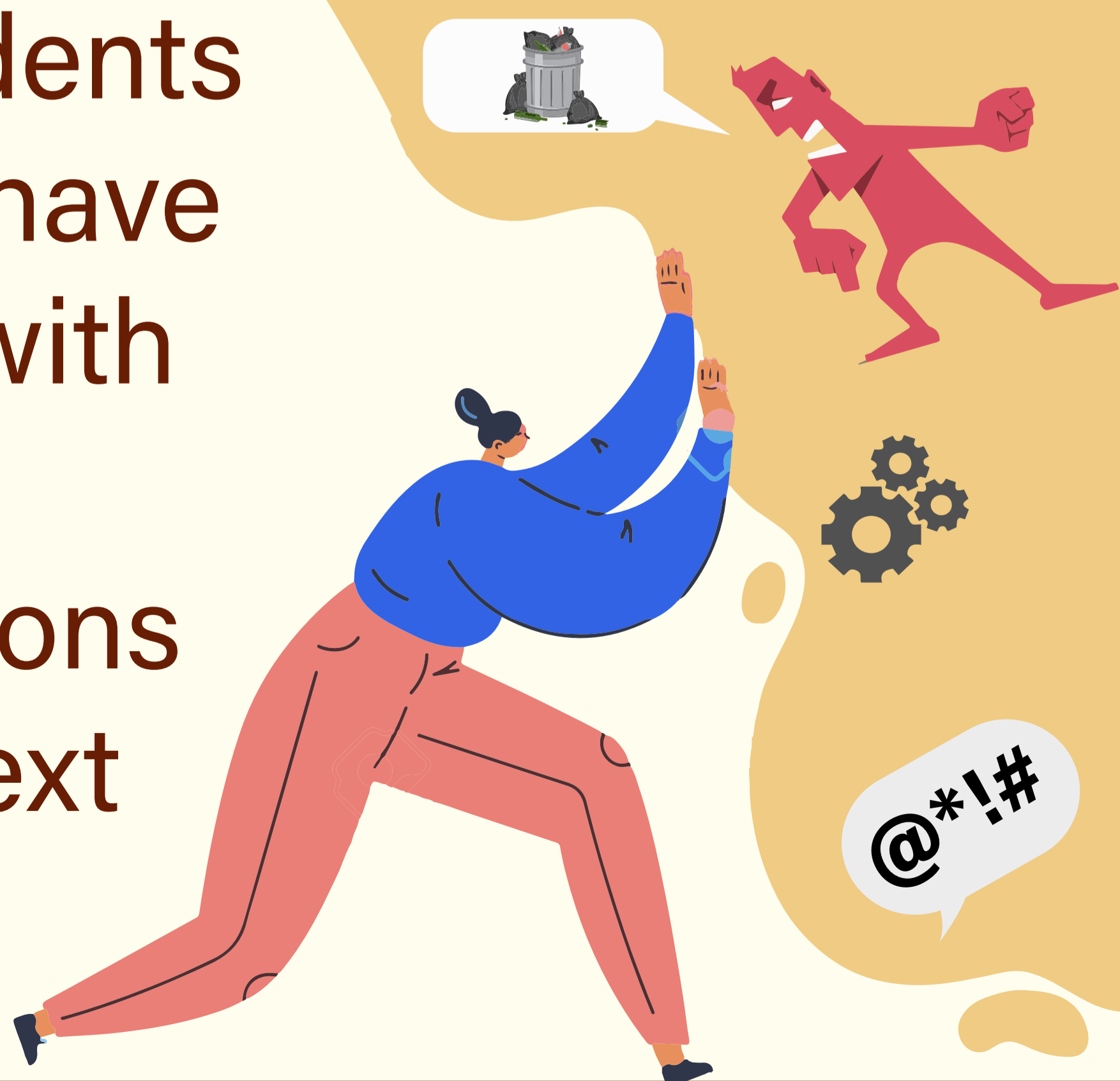
But, at the same time, he supported the movement and provided a “clear map” to the US Court of Appeals for the First Circuit. Here’s how:



Clearing away procedural and technical contentions

Ex: he dismissed claims that the students lacked standing, ruling that they were entitled to bring the case.

The students will not have to deal with these contentions at the next level.

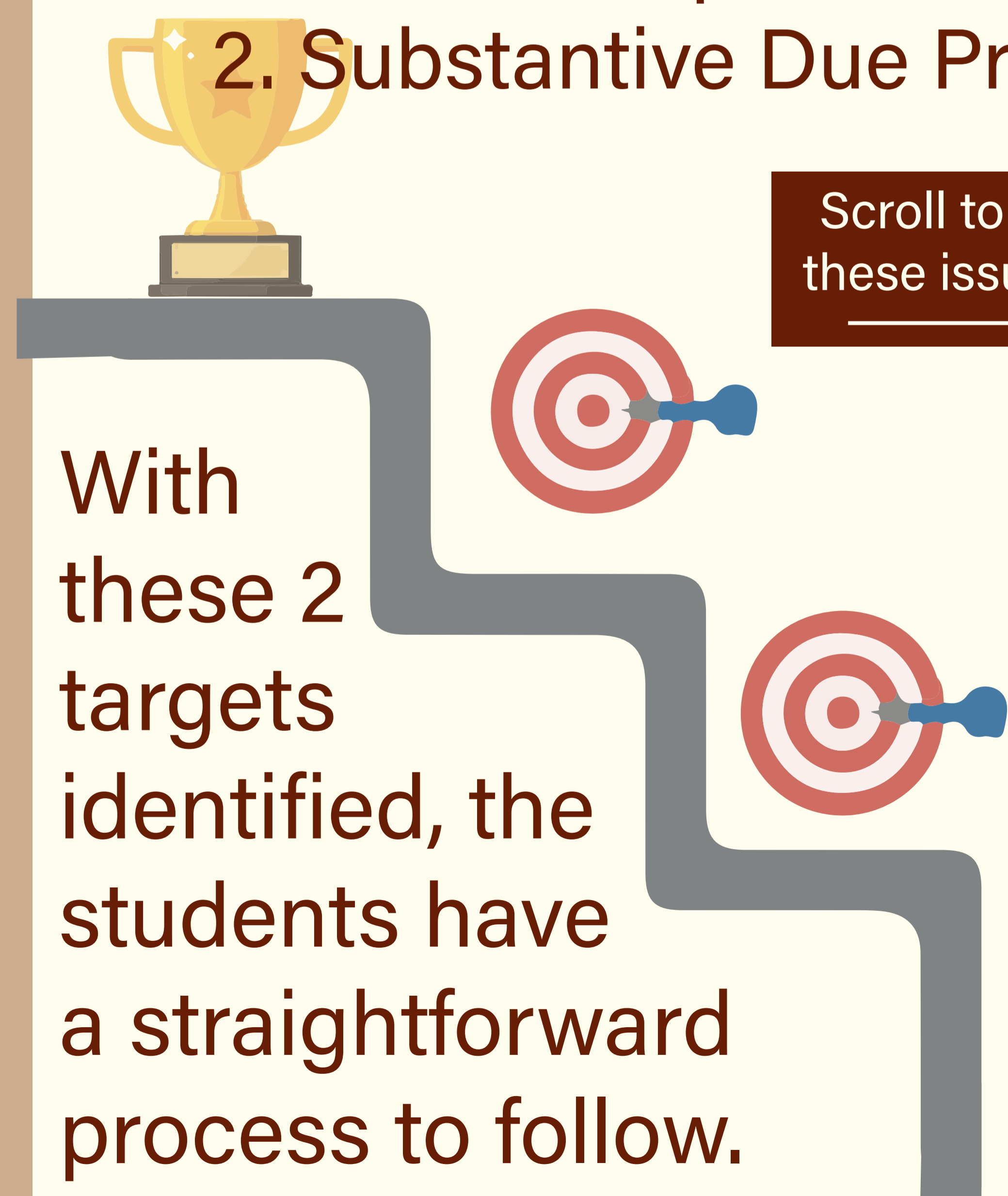


Narrowing the case down to 2 (solvable) legal issues:

1. Equal Protection
2. Substantive Due Process

Scroll to see what these issues mean

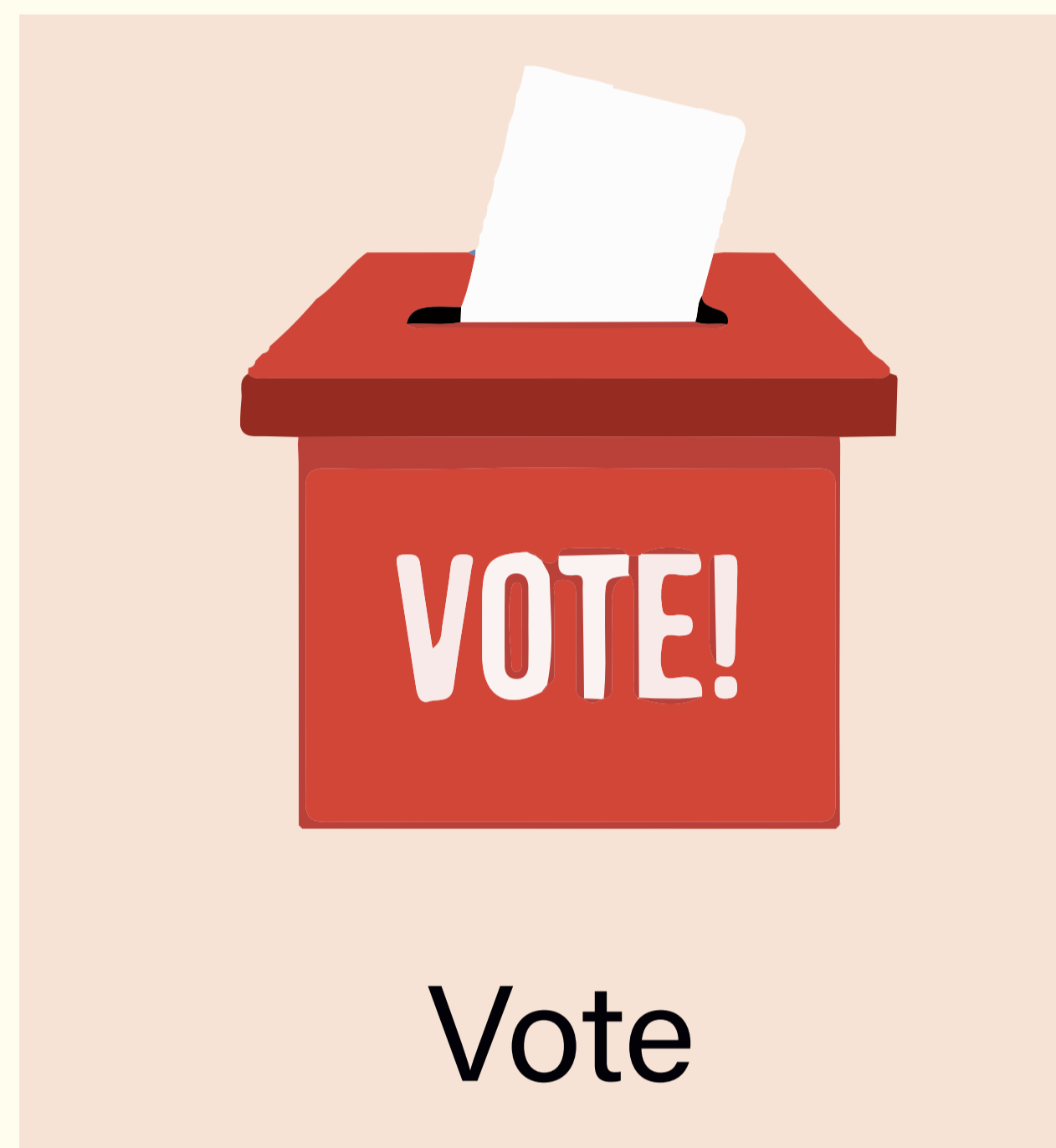
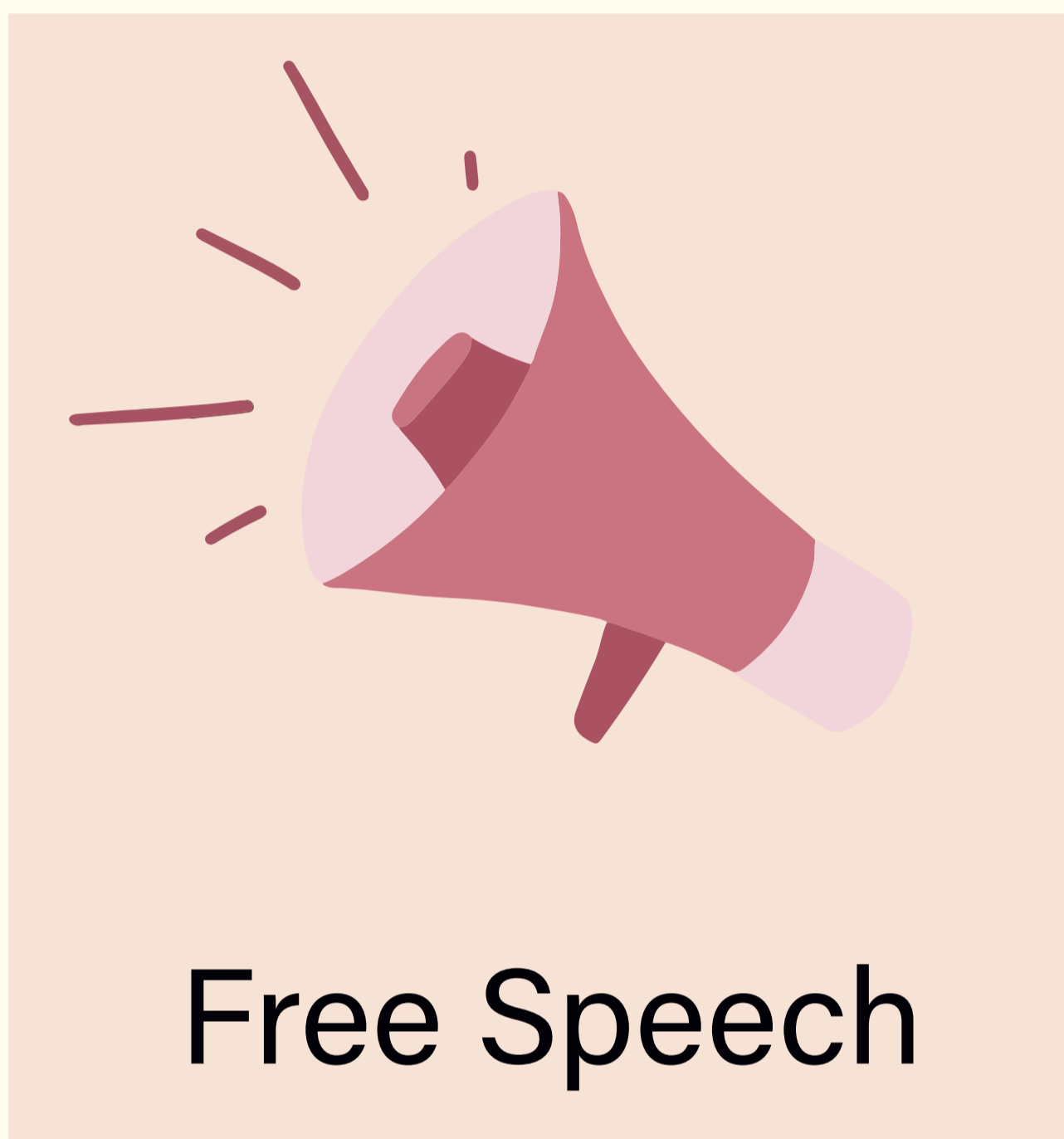
With these 2 targets identified, the students have a straightforward process to follow.



1. Equal Protection

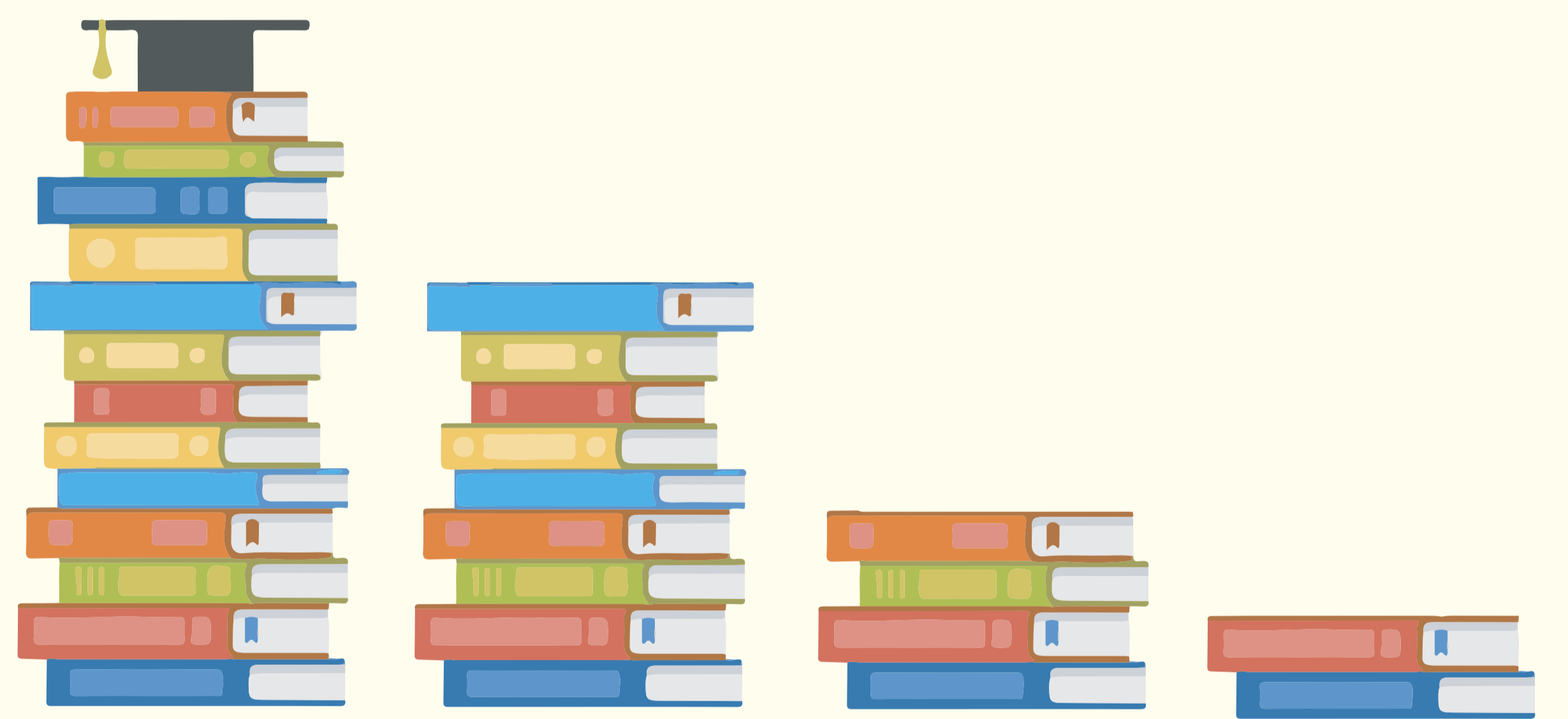
Rodriguez v San Antonio left a “crack in the door”:

In *Rodriguez v San Antonio*, the court ruled that under the 1st and 15th Amendments, all Americans have the rights to:



The judges agreed that you cannot exercise those rights without “basic education.”

Where the judges disagreed (and what determined the case), is what level of education constitutes a “basic education.”



The definition of “basic education” was left ambiguous. This is the “crack in the door.”

Crucially, Judge Smith agreed that this ambiguity leaves an opening for the students’ case, dismissing critics’ arguments that there’s no opening.



1. Equal Protection (Continued)

→ Why does this matter?

The students have already “won” the foundation of their case: the court agrees that education is needed to protect the equal protection clause.



All that’s left to do is to provide evidence for their definition of “basic education.”

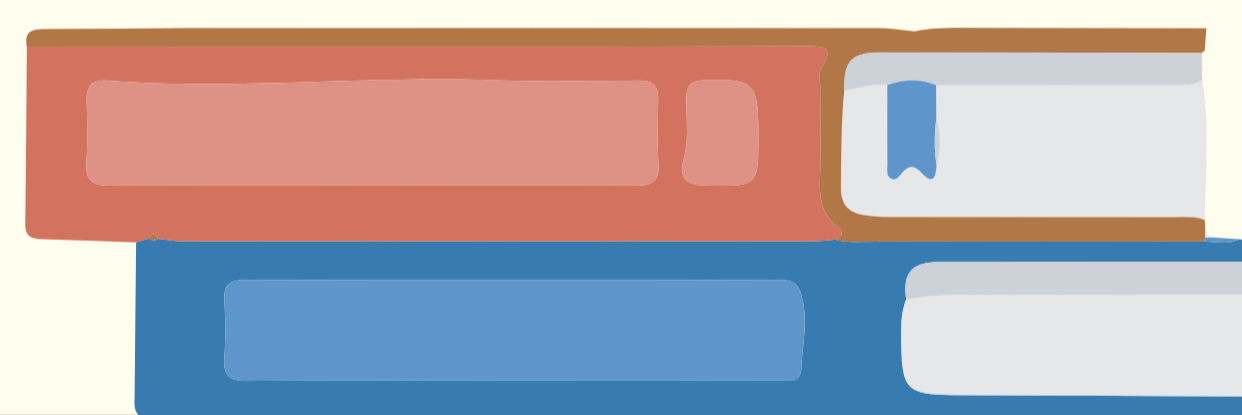
Where the *Rodriguez* plaintiffs failed:

Justice Powell said he could not rule in Rodriguez’s favor due the lack of evidence

showing quality education is needed for citizenship.



Defendants claim that “basic education” means getting *some education at all*.



Slightly more than no education at all

Plaintiffs just need to prove that we need “meaningful education” (more than bare literacy) to exercise rights.

The skills & knowledge needed to be an effective democratic citizen.



Michael Rebell, lead counsel for the RI students, believe they have this “sufficient evidence”.

2. Substantive Due Process

Definition of Substantive Due Process

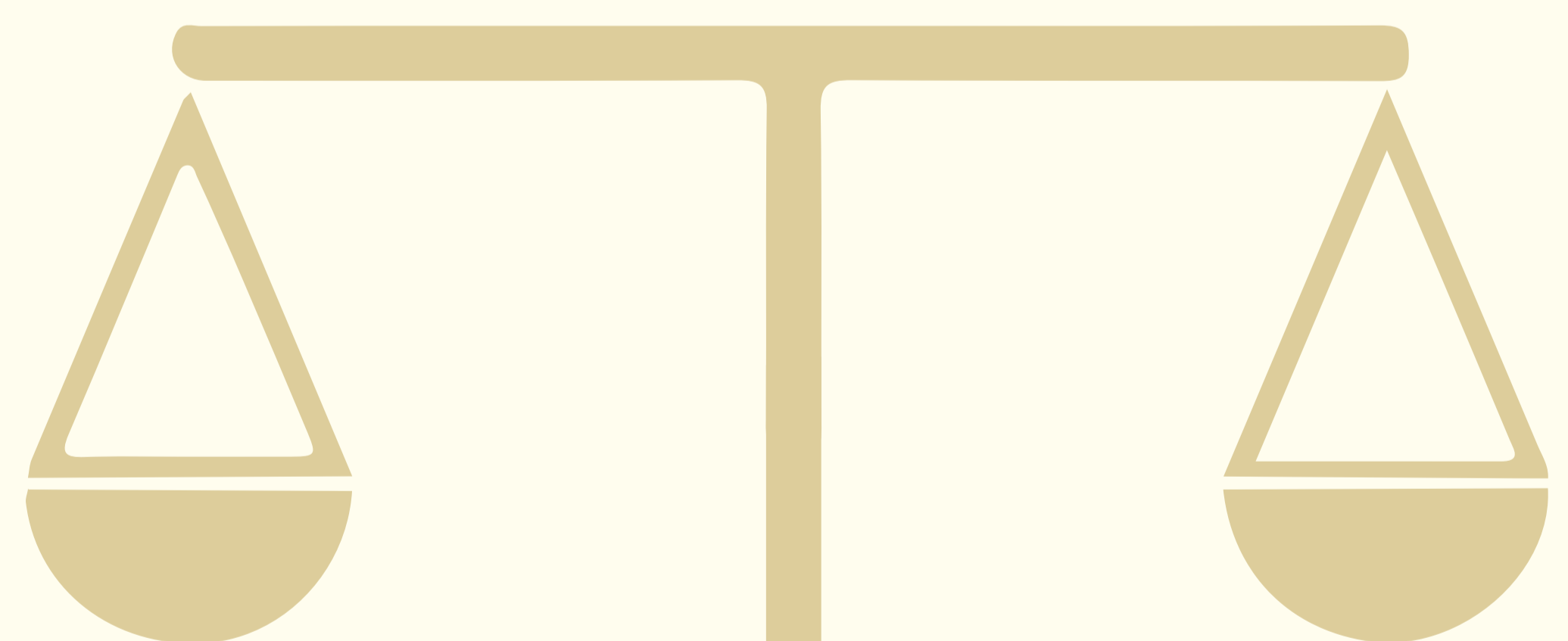
“Things that are so critical to our culture, society, and democratic system... so deeply grounded in the nation’s history – that if denied, would shock the conscience of the nation.”
(Rebell)



This recognizes that there are rights not explicitly written in the constitution.



And these rights are also protected by the 14th constitution (by the equal protection clause).



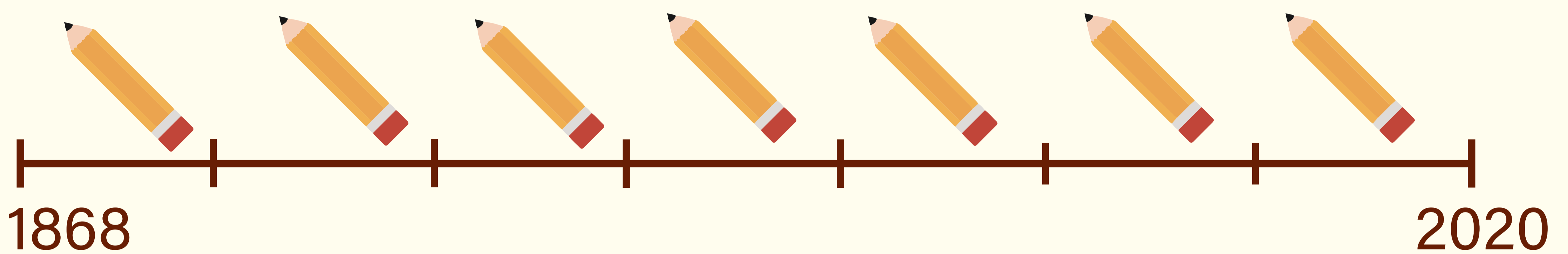
Example: Same-Sex Marriage

Was won because marriage has always been a “fundamental right” throughout US History, even if not explicitly said. To deny marriage on the grounds of sexual orientation thus violates the equality clause.

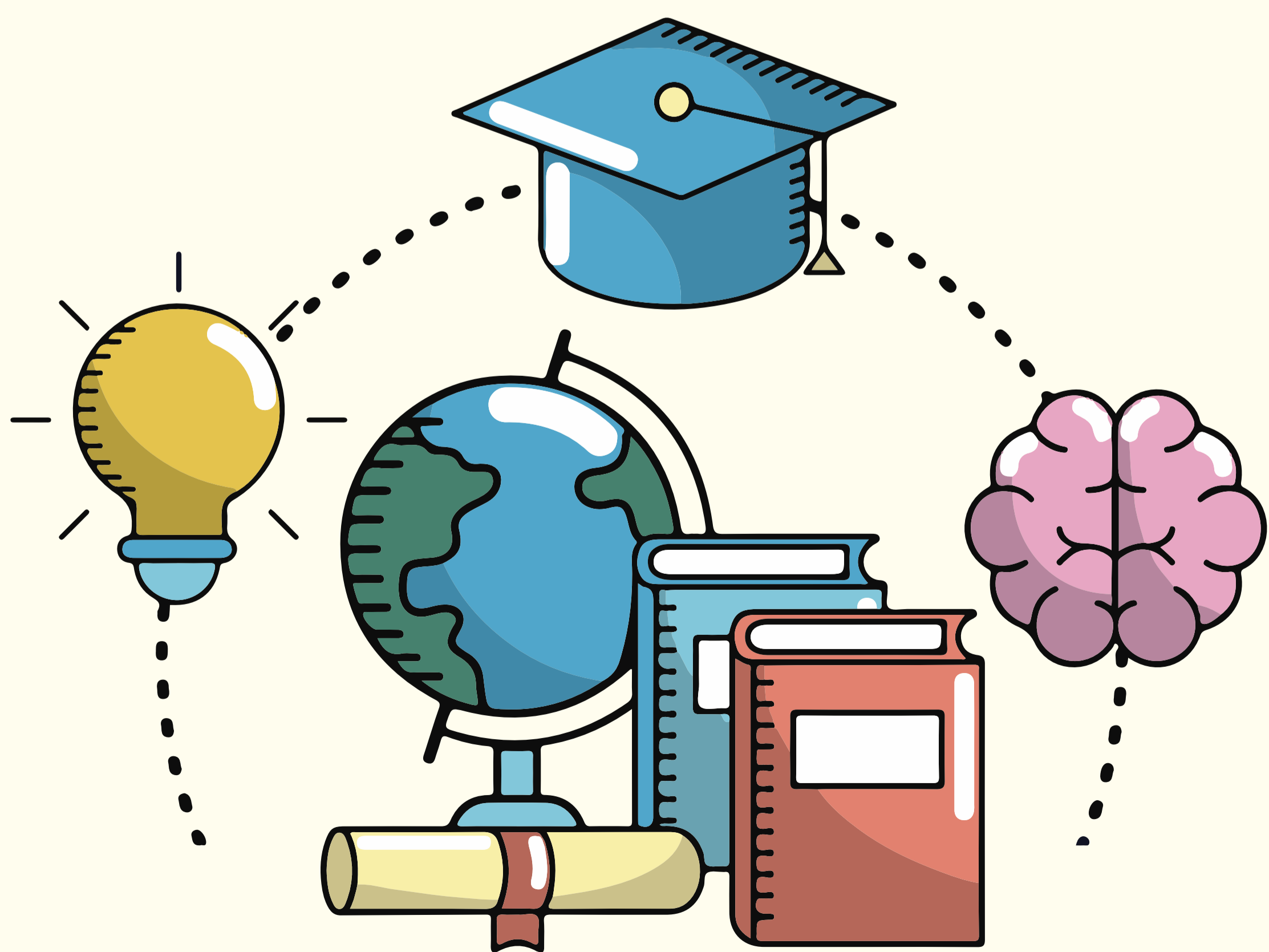


2. Substantive Due Process

Student activists need to prove that education has been deeply rooted in American traditions since 1868, when the 14th amendment (which contained the due process clause) was passed.



The proof: for Southern states to rejoin the union post-Civil War, they had to guarantee all people (of all races) an education.



Judge Smith agreed that education is deeply rooted, but on a state (not national) level



The plaintiffs argue that: No, the 14th Amendment is for the nation as a whole.

TLDR

The time is right, and the course is clear.



The judges currently on the Supreme Court are receptive to cases pushing for civic education.

To win their case, the activists must prove either:

A. *Meaningful* education is necessary to exercise our rights as citizens



B. Education is so deeply rooted in US traditions and culture, that it would be unconstitutional to not provide it equally to all



Lend Your Support

Follow & donate to the student & parent activists leading this cause:



“This case does not represent a wild-eyed effort to expand the reach of substantive due process, but rather a cry for help from a generation of young people who are destined to inherit a country which we – the generation currently in charge – are not stewarding well. What these young people seem to recognize is that American democracy is in peril..We would do well to pay attention to their plea.” – Judge Smith



The State of PVD Schools

In “calling” for Governor Raimondo to pay “attention to [the students’] plea,” Judge Smith pointedly exposed our policymakers’ refusal to adequately fund and support our schools. Regardless of the final outcome, this case has reconfirmed the urgency of improving our schools and highlighted the importance of supporting our student activists – no matter the route, they have and will hold our politicians accountable.

Sources

“Making the Case for Continuing the Case” (TeacherCollege Newsroom) <https://www.tc.columbia.edu/articles/2020/october/making-the-case-for-continuing-the-case/>

“Making a Federal Case: Michael Rebell and his students hope to convince the Supreme Court that education is a Constitutional right” (Teacher College Newsroom) <https://www.tc.columbia.edu/articles/2017/november/making-a-federal-case/>

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