

## ***Obergefell v. Hodges* / Background •—Answer Key**

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As you read the background summary of the case below, look for the **important vocabulary terms**. You can find definitions for these terms on the separate vocabulary handout.

The United States uses a system of government called **federalism**, which means there are two levels of government that share power: state governments and the **federal** government (also called the national government because it applies equally across the nation). Powers are divided between the powers. For example, while the federal government regulates copyrights across all states, states regulate their own school systems.

Marriage laws have also long been thought of as a state power, so states can decide themselves what marriage laws to have. Until 2003, states all considered marriage to be between a man and a woman. But in 2003, Massachusetts became the first state to allow same-sex marriage. By then, a growing number of people thought same-sex couples should be allowed to get married. Marriage for same-sex couples was not only to be equal with straight married couples, but also to gain the legal benefits that married couples have. For example, some medical decisions can only be made by a person's **spouse** if that person is seriously ill. Married couples can also pay less in taxes, and some states have rules limiting adoptions to married couples.

However, because same-sex marriage was allowed in some states but not others, same-sex couples who married legally in one state would not be recognized by the government as married if they moved to another state where same-sex marriage was illegal.

In July 2013, Jim Obergefell married his partner, John Arthur. They were married in Maryland because their home state of Ohio did not allow same-sex marriage. Arthur died several months after the wedding. After his husband's death, Obergefell wanted his name on Arthur's death certificate as his legal spouse. When Ohio **officials** refused, Obergefell sued in district court and won. However, the Sixth Circuit Court of Appeals overturned the decision, and Obergefell asked the U.S. Supreme Court to hear the case.

When the Supreme Court took Obergefell's case, there were three other similar lawsuits in different states. The Supreme Court decided to combine them and hear them together. In all four cases, the **petitioners** were same-sex couples from states where same-sex marriage was illegal. They all either wanted to get married in their home state or, like Obergefell, had gotten married legally in a different state but wanted their home state to recognize the marriage.

Petitioners argued that the bans on same-sex marriage violated the 14<sup>th</sup> Amendment's **Equal Protection Clause**. The Equal Protection clause states that, "No state shall ... deny to any person within its jurisdiction the equal protection of the laws." This means the state must apply laws equally to all people, and the petitioners argued this meant treating marriage for same-sex couples the same as marriage for straight couples.

The petitioners also argued that states that did not recognize legal same-sex marriages from other states were violating the **Full Faith and Credit Clause** of the Constitution, which says that “Full faith and credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.” The petitioners argued that this meant states with bans on same-sex marriage still had to recognize same-sex marriages done legally in another state.

The Supreme Court considered two questions: Does the 14<sup>th</sup> Amendment require a state to license same-sex marriages? Does the 14<sup>th</sup> Amendment require a state to recognize a same-sex marriage that was lawfully licensed out-of-state?

## Questions to Consider

1. Explain why, from a legal standpoint, Jim Obergefell would have wanted to marry his partner, John Arthur.

There are certain legal benefits couples can get from being married, including medical decisions, lower taxes, and the ability to adopt a child as a couple.

2. Why could same-sex marriage could be legal in some states but illegal in other states? Should states be allowed to have different marriage laws?

The laws about same-sex marriage varied between states because marriage laws are a state power under the federal system. Students answers will vary as to whether states should be allowed to have different laws. Students may answer that state governments better reflect the wishes of their populations. Other students may say there should be uniform national laws on marriages because it is not uncommon for people to move between states and people should not be limited from that by differences in state law.

3. Define the Equal Protection Clause and explain how it relates to *Obergefell v. Hodges*.

The Equal Protection Clause is the part of the 14th Amendment requiring the state must apply laws equally to all people and prohibiting state governments from treating groups of people differently from a legal perspective. In this case, the same-sex couples are arguing that the states are violating the Equal Protection Clause by defining marriage as between a man and a woman.

4. If you were a justice on the Supreme Court, how would you rule in this case and why?

Student answers will vary.