

Share and review the “Requirements of Due Process in Court” Handout:

Explain that these requirements for due process were developed by a judge named Henry Friendly in 1975. He tried to identify the elements of due process in court that made proceedings fair to people involved so that everyone could understand what was necessary. Discuss the requirements with students as you review the list. Discuss any words that might be confusing. Emphasize that the requirements make the process fair to everyone involved.

As a party in court, you are entitled to the following 8 requirements for due process:

- (1) An unbiased judge and jury.
- (2) An opportunity to have a lawyer with you.
- (3) Notice of the charges being filed against you and why.
- (4) An opportunity to present reasons why the charges against you should not be filed.
- (5) The right to present evidence and the right to know what evidence the opposing party has against you.
- (6) The right to call witnesses and the right to cross-examine, or question, the witnesses that the other party might call against you.
- (7) A decision in your case that is based only on the evidence that has been presented during the case.
- (8) A decision in your case that is written down and explained and includes clear explanations of any facts of your case.

Adapted from Judge Henry Friendly, “Some Kind of Hearing,” 1975.

Divide students into three groups:

Explain to students that they will be looking at scenarios (to the right) to determine if due process is being followed or if they think the people in the situation are being treated fairly. Distribute the “Due Process Scenarios” handout to students. Each group will be asked to read and answer questions about a different scenario. After groups have discussed their questions, they will present their scenarios and answers to the class.

Ask each group to answer the following questions about their scenario:

- What happened in your scenario?
- What facts are missing that you wish you knew?
- Based on the facts that you have, were the requirements for due process violated? What was unfair about the scenario?
- What could each of the characters have done differently to make the scenario more fair or to ensure due process?

Wrap-Up

What do you think the government, or courts, need to provide to help ensure that everyone’s due process rights are protected?

The government needs to make sure that people are getting a fair trial and that procedures are being followed.

What steps can you take to ensure that your due process rights are protected?

Allow students to offer ideas about how they might stay informed of their rights or help others to learn.

Scenarios

Scenario 1

Mrs. Jasper, the science teacher, finds several beakers broken on the floor of the science classroom. She makes all of the students in the science class remain following class and tells them someone must confess to breaking the beakers in order for everyone to leave. She asks each student to write a note telling her what they know about the broken beakers. Three students each write notes that say “I saw Ann break the beakers.” One of the students, Michelle, was angry with Ann after they had argued earlier in the week. Mrs. Jasper reads the three notes and tells Ann to go with her to the school office.

Students might identify several aspects of this scenario as violating due process. In particular, Ann was not offered an opportunity to tell her story or to confront the evidence against her before being accused of something that she might not have done.

Scenario 2

The park manager in City Village discovers the statue in Town Square Park covered with graffiti. He reviews security footage from the previous night and sees what appears to be a young man wearing a baseball cap spray painting the statue. William, a local middle schooler who wears baseball caps and walks through the park to and from school each day, is walking past the statue, on his way home, when the park manager stops him and starts talking to him. The park manager asks William if he knows anything about the vandalized statue. William tells the park manager that he is not comfortable with the ranger’s questions and asks if he can go home to his parents. The park manager tells William that he thinks William vandalized the statue and will report it to the local police.

Students might identify a variety of ways in which characters in this scenario violate due process. Students might suggest that the park ranger should have reported the graffiti to police first, rather than accusing anyone of vandalism. William is not offered an opportunity to call his parents, share his perspective, or see the video evidence against him.

Scenario 3

Reggie is accused of cheating on a math test, while Reggie’s friend, Robin, is accused of helping him. There is a policy at Reggie and Robin’s school that anyone caught cheating or helping someone to cheat on a test will be suspended for three days. After some questioning by Ms. Smith, the math teacher, both Reggie and Robin admit to cheating on the math test. Ms. Smith fills out a report about the incident and submits it to the school office. Based on the report, Reggie is suspended for cheating, while Robin is not.

Students should identify that Robin’s punishment in this scenario is not consistent with the school policy.