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Due Process

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Definition

Due process is best defined in one word – fairness. Throughout the history of the USA, its constitutions, statutes, and case law have provided standards for fair treatment of citizens by federal, state, and local governments. These standards are known as due process. When a person is treated unfairly by the government, including the courts, he/she is said to have been deprived of or denied due process. A due process claim is relevant only if there is a recognized liberty or property interest at stake (*Board of Regents v. Roth* 1972). Courts have issued numerous rulings about what this means in particular cases. The constitutional guarantee of due process of law, found in

the 5th and 14th Amendments to the US Constitution, prohibits all levels of government from arbitrarily or unfairly depriving individuals of their basic constitutional rights to life, liberty, and property. The 5th Amendment restricts the powers of the federal government, whereas the 14th Amendment restricts the powers of state governments.

Cross-References

► [Litigation](#)

References and Readings

- Board of Regents v. Roth*, 408 U.S. 564, 69 (1972).
Estelle v. Williams, 425 U.S. 501 (1976).
Oliver, 333 U.S. 257, 273–274 (1948).
Pennock, J. R., & Chapman, J. W. (1977). *Due process*.
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