

# Class Guide

Name: \_\_\_\_\_

*Lesson 20 - How does the Constitution protect your right to due process of law?*

**Step 1 – Vocabulary Work.** Complete the vocabulary work necessary to understand this lesson. The vocabulary should be completed first. Terms to know:

*Fifth Amendment*

*Fourteenth Amendment*

*Right to due process of law*

**Step 2 – Interactive Lecture.** Answer the questions during the class discussion.

<p><b>WHAT IS THE RIGHT TO DUE PROCESS OF LAW?</b></p> <ul style="list-style-type: none"><li>•SIMPLY PUT IT IS THE RIGHT TO BE TREATED FAIRLY BY YOUR GOVERNMENT</li><li>•THE GOVERNMENT MUST USE FAIR (APPLIES TO ALL PEOPLE EQUALLY) METHODS AND PROCEDURES</li><li>•THE TERM “DUE PROCESS OF LAW” IS FOUND IN THE 5<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT</li></ul>	<p>Why is it important to the people that the government treat people fairly?</p>
<p><b>5<sup>TH</sup> AMENDMENT</b></p> <p><b>THE FIFTH AMENDMENT SAYS THAT NO PERSON SHALL BE “DEPRIVED OF [HAVE TAKEN AWAY] LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW.”</b></p> <p><small>*THE FIFTH AMENDMENT PROTECTS YOUR RIGHT TO BE TREATED FAIRLY BY THE FEDERAL GOVERNMENT.</small></p>	<p>Why didn't the Bill of Rights protections apply to the state and local governments?</p>
<p><b>14<sup>TH</sup> AMENDMENT</b></p> <p><b>THE FIFTH AMENDMENT SAYS “NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW.”</b></p> <p><small>*THE 14<sup>TH</sup> AMENDMENT PROTECTS YOUR RIGHT TO BE TREATED FAIRLY BY YOUR STATE AND LOCAL GOVERNMENTS.</small></p>	<p>What made the 14<sup>th</sup> Amendment's due process protections necessary?</p>

## Step 3 – Reading Comprehension – Due Process of Law for Students.

Go through the reading below marking what you consider to be key points as due process protections apply to students.

*Due process of law protections for middle school students refer to the legal safeguards and rights that ensure fairness and justice in disciplinary and legal proceedings involving students of this age group. These protections are in place to balance the school's authority to maintain a safe and orderly learning environment with the students' constitutional rights. Here is a summary of some key due process protections for middle school students:*

**Notice of Charges:** *Students must be informed of the specific charges or allegations against them in a clear and understandable manner. This allows students to understand the accusations and prepare a defense.*

**Right to an Impartial Hearing:** *Middle school students have the right to a fair and impartial hearing or disciplinary process. This means that the decision-makers should not have a bias or conflict of interest in the case.*

**Right to Present Evidence:** *Students have the right to present their side of the story and provide evidence in their defense during disciplinary hearings. This can include witnesses, documents, or other relevant information.*

**Right to Legal Representation:** *While not always required, some students may have the right to be represented by an attorney or advocate during disciplinary proceedings, especially in more serious cases.*

**Right to Appeal:** *Students typically have the right to appeal the outcome of disciplinary hearings if they believe that the process was unfair or if new evidence comes to light.*

**Minimal Due Process:** *The level of due process required may vary depending on the severity of the disciplinary action. In less severe cases, schools may provide minimal due process, such as a meeting with a school administrator, while more serious cases may require a more formal hearing.*

**Protection Against Self-Incrimination:** *Students cannot be compelled to incriminate themselves and can refuse to answer questions that may lead to self-incrimination.*

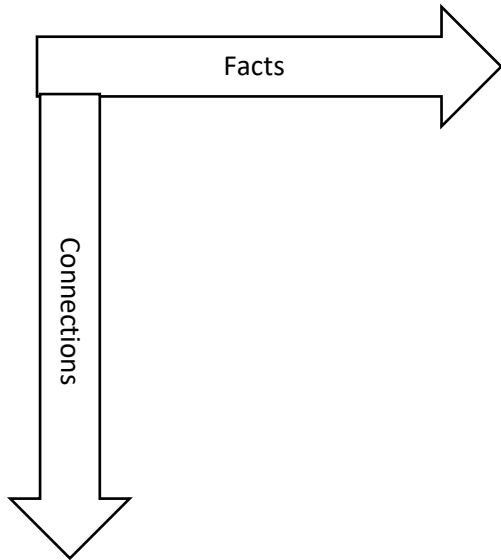
**Prohibition of Cruel and Unusual Punishment:** *Disciplinary actions taken by schools must be reasonable and not excessive. Punishments that are considered cruel or unusual are not permitted.*

**Equal Protection:** *Schools must apply disciplinary policies and procedures consistently to all students, regardless of race, gender, disability, or other protected characteristics. Discriminatory practices are not allowed.*

**Confidentiality:** *Schools should maintain the confidentiality of disciplinary records to protect the privacy of students involved.*

*It's important to note that the specific due process rights and procedures may vary by jurisdiction and can be influenced by federal, state, and local laws, as well as school district policies. Middle school students, like all students, are entitled to a fair and just process when facing disciplinary actions, and these protections aim to ensure their rights are upheld.*

**Step 4 – Thinking at Right Angles.** Use the reading in Step 3 to complete the graphic organizer below. The “Facts” box should summarize the main points from the reading. The “Connections” box should be links from your prior learning and personal experiences. The “Summary Statement” box should be a full sentence that sums up the main point of the reading.



Facts:

Prior Learning and Personal Connections:

Strong Summary Sentence:

**Step 5 – What do you think? Why is due process important in criminal trials?** Read the below imaginary situations. Use the questions to help you explain what is wrong in each situation.

*The police suspect you of a crime. Suppose they use force to make you give them information to show that you might be guilty.*

*You must appear in court. Suppose the judge listens to all the witnesses against you but does not allow you to present your side of the story.*

*The leaders of the country make decisions about your life, liberty, and property. Suppose they make these decisions in secret. They do not allow you or anyone else to participate.*

**Do you believe that you would be treated fairly if you were accused of a crime in these situations? Why or why not?**

**Even if you have not broken the law or been arrested, would you want other people suspected of crimes treated in these ways? Why or why not?**

**Would you want decisions that affected your life, liberty, or property made in secret? Why or why not?**

## **Step 6 – Critical Thinking Exercise – Why should you have the right to a lawyer? Work in a small group and work together to go through each step below.**

*The Bill of Rights says that if you are accused of a crime, you have the right to have a lawyer defend you. Suppose the government did not allow you to have a lawyer. The government would have violated your right to due process, which is guaranteed by the Constitution.*

- 1. What does the right to have a lawyer in a criminal case mean?*
- 2. Must the government pay a lawyer to defend you if you cannot afford to pay for one yourself?*

*In the famous case, Gideon v Wainwright (1963), the United States Supreme Court thought again about what the constitutional right to a lawyer means. In a small group, read the following story. Then answer the questions that follow it. Be prepared to share your responses with the class.*

### **Gideon v Wainwright (1963)**

*The police accused Clarence Gideon of breaking into a poolroom in Florida. They said he had stolen a point of wine and taken some coins from a cigarette machine. Gideon was fifty years old. He was a poor, uneducated man who did not know much about the law.*

*In court, Gideon asked the judge to appoint a lawyer for him. Gideon said that he was too poor to hire one himself. The judge said no. He said that Gideon did not have the right to have the court pay for a lawyer. The court could only do so when the charge was murder.*

*Gideon was tried before a jury. He tried to be his own lawyer. He made an opening speech to the jury. He asked questions of the witnesses against him. Gideon called his own witnesses to tell his side of the story. Then he made his final speech to the jury.*

*The jury decided that Gideon was guilty of the charges. The judge sent Gideon to prison for five years.*

*While in prison, Gideon wrote a petition to the Supreme Court. He wrote it by hand and in pencil. Gideon argued that all citizens have a right to a lawyer in cases where they might be sent to prison. The agreed to hear the appeal.*

### **Questions:**

- 1. Should the judge have appointed a lawyer to help Gideon? Why or why not?*
- 2. Should the right to have a lawyer mean that government has to provide one for all people who do not have the money to hire one? Why or why not?*
- 3. When should a person have a right to a lawyer?*
  - Upon arrest?*
  - Before being questioned?*
  - Before the trial?*
  - After the trial, if the person thinks the trial was unfair and wants another trial?*