

The 14th Amendment: Procedural Due Process and Goss v. Lopez

The due process clause of the Fourteenth Amendment echoes words in the Fifth Amendment, which only restricts the federal government, and in so doing incorporated the same protections at the state level. There are two forms of due process, procedural and substantive. **Procedural due process** is the idea that requires government officials to follow *fair procedures* before depriving a person of life, liberty, or property. **Substantive due process** is the idea that the *content or substance* of a law must be fair, not just its procedures. One Supreme Court case example involving procedural due process is **Goss v. Lopez** (1975).

Here is a brief description: Eight high school students and one middle school girl in Columbus, Ohio, were given 10-day suspensions for a variety of disruptive or disobedient behavior. One of them, Dwight Lopez was suspended for damaging school property during a lunchroom commotion. Lopez claimed he was not involved and was simply an innocent bystander. There was no hearing either before or shortly after the suspensions and Ohio law did not require it. Their principal's actions were challenged, and a federal court found that the students' rights had been violated. The case was then appealed to the Supreme Court.

Attorneys for Lopez and others argued that students have a legitimate property right in their education, which is protected by the due process clause. This right cannot be taken away without appropriate procedural hearings.

In a 5-to-4 decision, the Court ruled for the students, explaining that once the state provides an education for all of its citizens, it cannot deprive them of it without ensuring due process protections. The Court found that students facing suspension should at a minimum be given notice and afforded some kind of hearing. However, the Court also agreed with the District Court indicating, "*Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable...*"

Research the policies and procedures for dealing with misconduct at your school and read the newspaper, in-print or online, to search for current examples of balancing individual rights and the safety of persons or property.

Next installment: The 14th Amendment: Substantive Due Process and Pierce v. Society of Sisters



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