

Augustana College

EDUC/SPED 110 Foundations in American Education

Concepts addressed:
DUE PROCESS

Due Process is a legal concept that deals with the policies and procedures schools have in place to protect the rights of teachers, students and parents. It ensures equitable treatment and means that policies and procedures apply the same to all. Due Process is a legal process that the government or any other party must go through before denying a person his or her basic rights of life, liberty, or property. It helps guarantee that teachers, students, and parents are not deprived of these basic rights without the safeguards of fair procedures. In addition, it protects individuals from unreasonable or vague rules.

In special education, due process means that schools and parents have ways to resolve differences through mediation or by having a due process hearing before impartial hearing officers. Due Process serves as a safeguard and guarantees the involvement of parents in the placement of their child. When the parents of a student with disabilities and the educational agency disagree about the child's eligibility, placement, program needs or related services, either side can request a due process hearing. At the hearing, both sides present evidence by calling witnesses and submitting supporting documentation such as reports and evaluations. An independent hearing officer decides the outcome.

Due Process specifies that parents have access to their child's school records, an opportunity for independent evaluation, the right to an interpreter if needed, and reimbursement for legal fees if a parent prevails in a lawsuit against a school or district.