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Topic: Business and the Constitution

Subtopic: Due Process and Equal Protection

Content Nathan Hurwitz:

Creation Date:

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### Multiple-Choice Question Type

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1. The Fifth and Fourteenth Amendments provide that no person shall be deprived of "life, liberty, or property without due process of law." One aspect of due process is procedural due process; which of the following best describes procedural due process?

- a. A person (or corporation) must be allowed to bring a counter-action against any person or body threatening them will loss of life, liberty, or property.
- b. A person (or corporation) must be given the opportunity to object to a proposed action threatening their life, liberty, or property in front of a judge.
- c. A person (or corporation) must be given the opportunity to object to a proposed action threatening their life, liberty, or property in front of an impartial neutral decision-maker.
- d. A person (or corporation) must be allowed the opportunity to face their accuser in an open court of the United States.

Analysis:

- a. Incorrect. Any person or corporation who is at risk of losing life (the death penalty), liberty (imprisonment), or property (seizure), must have the opportunity to object to the proposed action in front of an impartial and neutral decision-maker.
- b. Incorrect. Any person or corporation who is at risk of losing life (the death penalty), liberty (imprisonment), or property (seizure), must have the opportunity to object to the proposed action in front of an impartial and neutral decision-maker.
- c. Correct. Any person or corporation who is at risk of losing life (the death penalty), liberty (imprisonment), or property (seizure), must have the opportunity to object to the proposed action in front of an impartial and neutral decision-maker.
- d. Incorrect. Any person or corporation who is at risk of losing life (the death penalty), liberty (imprisonment), or property (seizure), must have the opportunity to object to the proposed action in front of an impartial and neutral decision-maker.

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2. The Fifth and Fourteenth Amendments provide that no person shall be deprived of “life, liberty, or property without due process of law.” One aspect of due process is substantive due process; which of the following best describes substantive due process?

- a. Substantive due process requires that requires that the judiciary and members of the court behave towards the person or corporation in a manner assuming their innocence.
- b. Substantive due process requires that actions against individuals (or corporations) be brought in a timely manner and in a location agreed upon by both parties.
- c. Substantive due process requires that laws and other legal actions are grounded in real-world conditions and circumstances.
- d. Substantive due process assures the rights to have laws that do not deprive individuals (or businesses) of property or other rights without justification.

Analysis:

- a. Incorrect. Substantive due process assures individuals and corporations that any laws that might result in their losing property or any other rights are fair and reasonable in content and exist to further a legitimate governmental objective.
- b. Incorrect. Substantive due process assures individuals and corporations that any laws that might result in their losing property or any other rights are fair and reasonable in content and exist to further a legitimate governmental objective.
- c. Incorrect. Substantive due process assures individuals and corporations that any laws that might result in their losing property or any other rights are fair and reasonable in content and exist to further a legitimate governmental objective.
- d. Correct. Substantive due process assures individuals and corporations that any laws that might result in their losing property or any other rights are fair and reasonable in content and exist to further a legitimate governmental objective.

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3. Which of the following is an example of a person being deprived of a property interest without being afforded due process?

- a. A news outlet having several of its radio outlets shut down for holding too large a percentage of the market after a lengthy legal battle.
- b. A landlord being told that their tenant cannot be evicted despite having failed to pay rent for the last 8 months.
- c. A tenant being evicted after having explained in court that the landlord has failed to supply a reliable hot water heater.

d. A student being expelled from school for plagiarism without having a chance to tell her side this situation.

Analysis:

- a. Incorrect. The student has had her education, which is considered a property, taken without the individual having the opportunity to make her case in front of an unbiased and neutral arbiter.
- b. Incorrect. The student has had her education, which is considered a property, taken without the individual having the opportunity to make her case in front of an unbiased and neutral arbiter.
- c. Incorrect. The student has had her education, which is considered a property, taken without the individual having the opportunity to make her case in front of an unbiased and neutral arbiter.
- d. Correct. The student has had her education, which is considered a property, taken without the individual having the opportunity to make her case in front of an unbiased and neutral arbiter.

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4. Which of the cases below does NOT fall under the Equal Protection Clause?

- a. an accusation of sexually aggressive behavior from an intern regarding her boss
- b. affirmative action programs in California, Maryland, Michigan, and Virginia
- c. creating an ordinance prohibiting a bar featuring female strippers, but not male strippers
- d. the city of New York prohibiting the hiring of methadone users

Analysis:

- a. Correct. While sexually aggressive behavior is not appropriate, it does not fall under the Equal Protection Clause. Affirmative Action programs in California, Maryland, Michigan, New Hampshire, Oklahoma, Virginia, and Washington have enacted laws prohibiting affirmative action. Offering different conditions to male and female strippers and prohibiting the hiring of a group of people based on the medicine they take all come under the Equal Protection Clause.
- b. Incorrect. While sexually aggressive behavior is not appropriate, it does not fall under the Equal Protection Clause. Affirmative Action programs in California, Maryland, Michigan, New Hampshire, Oklahoma, Virginia, and Washington have enacted laws prohibiting affirmative action. Offering different conditions to male and female strippers and prohibiting the hiring of a group of people based on the medicine they take all come under the Equal Protection Clause.
- c. Incorrect. While sexually aggressive behavior is not appropriate, it does not fall under the Equal Protection Clause. Affirmative Action programs in California, Maryland, Michigan, New Hampshire, Oklahoma, Virginia, and Washington have enacted laws prohibiting affirmative action. Offering different conditions to male and female strippers and prohibiting the hiring of a group of people based on the medicine they take all come under the Equal Protection Clause.

d. Incorrect. While sexually aggressive behavior is not appropriate, it does not fall under the Equal Protection Clause. Affirmative Action programs in California, Maryland, Michigan, New Hampshire, Oklahoma, Virginia, and Washington have enacted laws prohibiting affirmative action. Offering different conditions to male and female strippers and prohibiting the hiring of a group of people based on the medicine they take all come under the Equal Protection Clause.

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5. Which of the following does the Equal Protection Clause of the Fourteenth Amendment protect us from?

- a. using any ethnic or racial criteria as the basis for making any kind of employment decision.
- b. hiring a male job candidate over a female candidate.
- c. separate bathroom facilities for different genders
- d. having to equally consider employing people of widely divergent ages.

Analysis:

a. Correct. Because affirmative action programs are inherently discriminatory in nature, they may violate the Fourteenth Amendment. Federal, state, and local government affirmative action programs that use racial or ethnic classifications as a basis for making employment decisions are held up to the highest scrutiny in the courts.

b. Incorrect. Because affirmative action programs are inherently discriminatory in nature, they may violate the Fourteenth Amendment. Federal, state, and local government affirmative action programs that use racial or ethnic classifications as a basis for making employment decisions are held up to the highest scrutiny in the courts.

c. Incorrect. Because affirmative action programs are inherently discriminatory in nature, they may violate the Fourteenth Amendment. Federal, state, and local government affirmative action programs that use racial or ethnic classifications as a basis for making employment decisions are held up to the highest scrutiny in the courts.

d. Incorrect. Because affirmative action programs are inherently discriminatory in nature, they may violate the Fourteenth Amendment. Federal, state, and local government affirmative action programs that use racial or ethnic classifications as a basis for making employment decisions are held up to the highest scrutiny in the courts.

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6. What does procedural due process require of the fact finder?

- a. The fact finder must be a judge, an attorney, or law professor.
- b. The fact finder must have no prior knowledge of the matter.
- c. The fact finder must pass an exam on the law of due process.
- d. The fact finder must be neutral, having no personal interest in the outcome.

Analysis:

- a. Incorrect. If a fact finder has a personal interest in the outcome it can be inferred that the decision made will serve that interest rather than that of justice..
- b. Incorrect. If a fact finder has a personal interest in the outcome it can be inferred that the decision made will serve that interest rather than that of justice.
- c. Incorrect. If a fact finder has a personal interest in the outcome it can be inferred that the decision made will serve that interest rather than that of justice.
- d. Correct. If a fact finder has a personal interest in the outcome it can be inferred that the decision made will serve that interest rather than that of justice.

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7. What article of the Constitution requires the government to protect the rights of all citizens equally?

- a. The Fifth and Fourteenth Amendments
- b. Article I, section 8,
- c. The First Amendment
- d. Article IV, section 2,

Analysis:

- a. Correct. Amendment 14, section 1 says: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.
- b. Incorrect. Amendment 14, section 1 says: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state

wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.

c. Incorrect. Amendment 14, section 1 says: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.

d. Incorrect. Amendment 14, section 1 says: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.

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<question type="true-false">

8. A state does not have to respect the due process rights of citizens from another state, or another country.

T

Incorrect. Amendment 14, section 1 says: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

F

Correct. Amendment 14, section 1 says: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

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<question type="true-false">

9. The 14<sup>th</sup> Amendment's equal protection language only applies to state governments.

T

Incorrect. The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.

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Correct. The Supreme Court has found that the Due Process Clause of the Fifth Amendment makes the Equal Protection Clause of the Fourteenth Amendment applicable to the Federal government.

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