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| **TEXAS CTE LESSON FORMAT**[www.txcte.org](http://www.txcte.org) |
| **Lesson Identification and TEKS Addressed** |
| **Career Cluster** | Law, Public Safety, Corrections, & Security |
| **Course Name** | Court Systems and Practices |
| **Lesson/Unit Title** | Due Process |
| **TEKS Student Expectations** | **§130.340. (c) Knowledge and Skills**(6) The student explains the structure and provisions of the U.S. Constitution and the Bill of Rights and how they impact the criminal trial process. (F)The student is expected to: describe the due process rights of a criminal suspect in the trial and sentencing process; and (G) Explain the impact of the Fifth and Sixth amendments on the criminal trial process. |
| **Basic Direct Teach Lesson**(Includes Special Education Modifications/Accommodations and one English Language Proficiency Standards (ELPS) Strategy) |
| **Instructional Objectives** | The student will be able to:1. Define key terms 2. Describe the due process rights of a criminal suspect in the trial and sentencing process 3. Explain the impact of the Fifth and Sixth Amendments on the criminal trial process  |
| **Rationale** | Due process is imperative in the trial and sentencing process. If any of the due process rights are withheld, the trial process is tainted and violates the U.S. Constitution. It is essential that students understand these due process rights.  |
| **Duration of Lesson** | 2 hours |
| **Word Wall/Key Vocabulary***(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* | Due Process – an established course for judicial proceedings or other governmental activities designed to safeguard the legal rights of individuals (14th Amendment) 1. Substantive due process – the government cannot make laws that apply to situations in which the government has no business interfering, such as privacy, marriage, or travel 2. Procedural due process – the government must use fair procedures in fulfilling its responsibilities. Procedures used by the government must be reasonable and consistent. The powers of government are limited Review of Constitution sections: Fifth Amendment, Sixth Amendment, Eighth Amendment, Writ of Habeas Corpus Miranda Rights |
| **Materials/Specialized Equipment Needed** | * Due Process computer-based presentation
* Notebook paper
* Pens
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| **Anticipatory Set**(May include pre-assessment for prior knowledge) | Relate topic to a recent news item if possible. *What fundamental due process rights are guaranteed to those accused of a crime during the trial and sentencing process?* |
| **Direct Instruction \*** | 1. Due Process Rights During Trial and Sentencing
	1. Writ of Habeas Corpus (Article I, section 9 of the Constitution)
		1. A directive from a court requiring the government to justify the imprisonment of a citizen
		2. The government has the burden of proof to justify arrest and detention in a crime
		3. Individuals convicted, even though they profess their innocence or that they had a tainted trial, can request the habeas corpus privilege and may demand that the government justify their confinement
		4. A review of court records and evidence may be conducted to determine if a violation has occurred
	2. Trial by Jury (Article III and the Sixth Amendment)
		1. Persons charged with a crime have the right to allow citizens to determine their guilt or innocence
		2. Federal cases must have an indictment from a Grand Jury to pursue a criminal trial
		3. The jury protects persons charged with a crime from corruption within the system
		4. Persons charged with a crime can waive their right to a trial by jury
			1. The request must be in writing
			2. The request must be in open court
			3. If the death penalty is not sought
		5. *Blanton v. Las Vegas* (1989) ruled that only those crimes considered as “serious crimes” justified a jury. Crimes that carry a penalty of $500 or more, or six months in jail are considered “serious”
		6. A Grand Jury is a panel of 12 jurors that decide whether there is enough evidence to go to trial
	3. Self-Incrimination (Fifth Amendment)
		1. A person does not have to give testimony if he or she has a legitimate concern that the testimony will contribute to his or her conviction of the crime
		2. *Miranda v. Arizona* states that persons arrested must be “read their rights” prior to interrogation about a crime
			1. Double Jeopardy (Fifth Amendment)
	4. “No person shall be subject for the same offense to be twice put in jeopardy”
	5. Exceptions to Double jeopardy
		1. The defendant challenges the conviction on appeal and a new trial is granted
		2. The defendant can be held liable in both criminal and civil courts
		3. The defendant can be tried at both the state and federal levels
		4. Speedy Trial (Sixth Amendment) – the trial must be held as soon as possible; a person cannot be held for extended periods without a trial
		5. Confrontation and compulsion of witnesses (Sixth Amendment)
	6. Those accused of a crime have the right to confront those witnesses that will testify against them
	7. Those accused of a crime have the right to compel witnesses to testify on their behalf
	8. Impartial Jury (Sixth Amendment) – you must be tried in the jurisdiction where the crime was committed, unless you can show that the citizens in that jurisdiction are prejudiced
	9. Informed of Nature and Cause of Accusation (Sixth Amendment) – the accused has the right to know what they are being charged with
	10. Public Trial (Sixth Amendment) – the trial must be open to the public and a public record must be maintained
	11. Appointment of Counsel (Sixth Amendment) – those accused of a felony crime will be appointed an attorney if they cannot afford one
	12. Excessive Bail or Fines, and Cruel and Unusual Punishment (Eighth Amendment)
		1. Penalties can be fines or incarceration, but not excessively painful or physically harmful
			1. Cruel and unusual punishment has been expanded to include unsanitary and inhumane conditions of confinement
			2. Punishment for the crime must be proportionate
			3. Limits judges, congress, and legislatures from assessing excessive fines and punishment
			4. The right to bail allows suspects freedom while they are preparing their case
			5. Bail keeps the accused from staying in jail prior to a determination of guilt
	13. Sentencing
		1. Courts must follow the guidelines established through statutes and legislation when imposing a sentence
		2. The discretion of a judge is limited by due process rights. Due process is denied if a judge gives a longer sentence in a second trial than was given in the original trial

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Guided Practice \*** | 5th and 6th Amendment Essay. Have students write an essay explaining the impact of the Fifth and Sixth Amendments on the criminal trial process. They may use the information contained in this lesson for their factual basis. You may also present them with a copy of the Bill of Rights. The essay must include all the rights covered under these amendments that apply to the criminal trial process. Students must also discuss what the criminal trial process would look like without these due process rights. Use the Essay Rubric for assessment. *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Independent Practice/Laboratory Experience/Differentiated Activities \*** | For reinforcement, students should research Supreme Court cases that deal with Due Process rights and write an essay on how the trial process was impacted from that case. Use the Essay Rubric and the Research Rubric as needed for assessment. For enrichment, students will research due process rights of two countries other than the United States. Students will then make a poster comparing the United States due process rights with those of the two other countries. Students will then present their findings to the class. Use the Presentation Rubric and the Research Rubric as needed for assessment. *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Lesson Closure** | Select key points in student essays to discuss, Review of Exam |
| **Summative/End of Lesson Assessment \***  | * Due Process Exam and Key
* Debate Rubric
* Essay Rubric
* Presentation Rubric
* Research Rubric

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*For reinforcement, students will explain what injustices could be done if these specific motions and objections were not in place. Use the Writing Rubric for assessment. |
| **References/Resources/****Teacher Preparation** | * Civic Library of the Missouri Bar
* California State University
* U.S. Constitution, Bill of Rights Do an Internet search for: this nation bill of rights accused.
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| **Additional Required Components** |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** | English/Language Arts Standards I. Writing A. Compose a variety of texts that demonstrate clear focus, the logical development of ideas in well-organized paragraphs, and the use of appropriate language that advances the author’s purpose. 1. Determine effective approaches, forms, and rhetorical techniques that demonstrate understanding of the writer’s purpose and audience. 2. Generate ideas and gather information relevant to the topic and purpose, keeping careful records of outside sources. 3. Evaluate relevance, quality, sufficiency, and depth of preliminary ideas and information, organize material generated, and formulate a thesis. 4. Recognize the importance of revision as the key to effective writing. Each draft should refine key ideas and organize them more logically and fluidly, use language more precisely and effectively, and draw the reader to the author’s purpose. 5. Edit writing for proper voice, tense, and syntax, assuring that it conforms to standard English, when appropriate.  |
| **Recommended Strategies** |
| **Reading Strategies** |  |
| **Quotes** |  |
| **Multimedia/Visual Strategy****Presentation Slides + One Additional Technology Connection** |  |
| **Graphic Organizers/Handout** |  |
| **Writing Strategies****Journal Entries + 1 Additional Writing Strategy** |  |
| **Communication****90 Second Speech Topics** |  |
| **Other Essential Lesson Components** |
| **Enrichment Activity**(e.g., homework assignment) |  |
| **Family/Community Connection** |  |
| **CTSO connection(s)** | SkillsUSA |
| **Service Learning Projects** |  |
| **Lesson Notes** |  |

1. Visit the Texas College and Career Readiness Standards at <http://www.thecb.state.tx.us/collegereadiness/CRS.pdf>, Texas Higher Education Coordinating Board (THECB), 2009. [↑](#footnote-ref-1)