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DUE PROCESS IN A NUTSHELL

by Honorable Arthur Markewich,
Associate Justice, Appellate
Division, Supreme Court of the
State of New York

Due process should be the name of the game for administrative law judges. It is necessary to be familiar with its elements as what I call the walking-around law of your specialty; they will usually be needed when there's no time to look anything up. These are the basic things to bear in mind: a right to reasonable notice of specific charges or claims, and usually a right to have the specifics sharpened whether by furnishing details or by clarification; an opportunity to respond, and to conduct such discovery as may be required to prevent surprise; a right to impartial and unbiased consideration of evidence, not unfairly trammelled in presentation, according to recognized standards of credibility and acceptability as to trustworthiness; a right to be confronted by witnesses and to cross-examine them; a right to compel attendance of one's own witnesses and to elicit their evidence, spoken, documentary, or physical; a right to the assistance of competent counsel (but not yet entirely the right to have counsel supplied by the community); a right to present argument addressed to a factual determination, and to applicability and operation of law; a right to examine documents and exhibits; a fourth amendment guarantee against unreasonable searches and seizures; and, finally, a right to a reasoned, rational, and not unduly delayed determination, coupled with a right to careful and swift judicial review.

Student Essay Contest

Law students from across the country have registered to compete in the 1981 Student Essay Contest on the topic "The Future of Administrative Adjudication." The successful entry will be announced by the Board of Governors, presented at the annual meeting, and published in the next issue of the Journal.

ATTENTION MEMBERS! If you have not already done so, please complete and return the membership questionnaire on page 36 to Judge Rosenberg.