

Legal Affairs: Constitutional Rights – 4th and 14th Amendments

Review the Constitution in Song

“Do you remember the basic principles of the U.S. Constitution? If not, this Schoolhouse Rock video might help. But be forewarned, the song might stick with you for the rest of your life.”

Schoolhouse Rock, Constitution Preamble - http://www.youtube.com/watch?v=Q_TXJRZ4CFc

4th Amendment

“The U.S. Constitution has 27 amendments that more specifically describe how the general goals stated in the preamble will be carried out. Although CPS and child welfare staff need to be aware of the guaranteed rights in a number of these amendments, this topic focuses on the 4th and 14th amendments, as they have the most significance for CPS actions and decisions in the field.

“The 4th Amendment is part of the Bill of Rights, the first ten amendments to the US Constitution ratified in 1791. They were a critical addition to the Constitution intended to guarantee individual liberties and restrain governmental abuse.

“Take a moment to read the language of the 4th Amendment. When you are finished, please continue with the presentation.”

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

4th Amendment Translation

“So what does the 4th Amendment mean in more basic terms?”

“It means there are restrictions on government officials doing such things as entering your home or private office, searching through your things, listening in on your private conversations, stopping you on the street to go through your pockets or briefcase, looking under your clothing, and detaining you at the police station.”

14th Amendment

“The 14th Amendment, ratified in 1868, was passed by Congress after the Civil War to combat the so-called Black Codes, enacted to harass ex-slaves and deny them the rights granted them through emancipation.

“Take a moment to read the language of the 14th Amendment. When you are finished, please continue with the presentation.”

“Section I. 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.”

14th Amendment Translation

“This amendment is particularly important, because it makes clear that state governments are required to recognize the same individual rights of its citizens that the federal government must recognize. All citizens are guaranteed equal protection of their rights, as described throughout the amendments, and equal protection of the laws.”

Impact on CPS

“The guarantee of individual rights is an ongoing, imperfect, and uneven process. For several decades, CPS developed its practice protocols without active consideration of families’ constitutional rights. The constitutional restrictions on governmental actions in responding to reports of child abuse and neglect were seen by many as applying to law enforcement agencies, but not necessarily to CPS. But a number of federal court rulings in more recent years have explicitly reinforced that CPS is bound by the constitutional amendments.

“These court rulings, with a few exceptions, do not provide concrete rules that can be clearly applied to all cases. Whether a specific CPS action stays within the boundaries of the constitutional restrictions depends on the specific facts of each case. A number of questions about the intersection of certain CPS actions and constitutional protections have not yet been clearly settled. Therefore, child welfare professionals in Wisconsin have sought to answer some of these questions through policy development. The manner in which a CPS worker conducts himself or herself is just as relevant to the observation of constitutional rights as the specific actions taken by the worker.

“State statutes require that CPS interview or observe the child, interview the parents, and also visit the child’s home in certain types of cases. The next activity uses scenarios to help illustrate how CPS can fulfill these requirements, diligently assessing allegations of maltreatment and keeping children safe while observing the rights guaranteed for citizens under the Constitution.”