

# Chapter 4.

## Client Rights

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After reading the chapter you should know:

- How agency actions and due process rights relate
- How agencies enforce the due process rights
- Which Constitutional amendments are primary in agency procedures
- Which rules address client rights
- How government programs complicate the interpretation of client rights
- How costs impact client rights
- What is meant by public rights or freedoms
- How immunity protects agencies

# What are Client Rights?

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A person or organization seeking services from an agency is also called a client of the agency.

Client rights are the protections these citizens have in all agency actions.

# Fifth Amendment

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Life, liberty or property

- Which is involved in the state agency you are studying?
- What is/are the *interest(s)* involved in the state agency you are studying? How is/are that/those interest(s) protected?

# Due Process in Cell Phone Example

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We as a class developed an enabling statute creating an agency to regulate cell phone use in class rooms. How would that agency protect client rights?

- Who are the clients?
- What interests are involved?
- What would constitute due process?
- Is there an equal protection issue?

# Due Process Requirements for Violations

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In order to claim a due process violation, one must show:

- This is a protected interest—life, liberty, property;
- The government deprived one of that interest—false imprisonment where the interest in liberty;
- It is a state action—the government or agency action did not use proper procedures.

# Goldberg v Kelly

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What protections were there before court decision?

# Goldberg v Kelly: What Factors Are Being Balanced?

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Deprives eligible recipient of the very means by which to live while he waits.

His need to concentrate on finding the means for daily subsistence, in turn, adversely affects his ability to seek redress from welfare bureaucracy.

Conserving fiscal and administrative resources.

Is this an overwhelming consideration?

Is it an outweighing countervailing consideration?

# Goldberg v Kelly: When is Pre-termination Hearing Not Needed?

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“It is true, of course, that some governmental benefits may be administratively terminated without affording the recipient a pre-termination evidentiary hearing.” (109)

Blacklisted government contractor

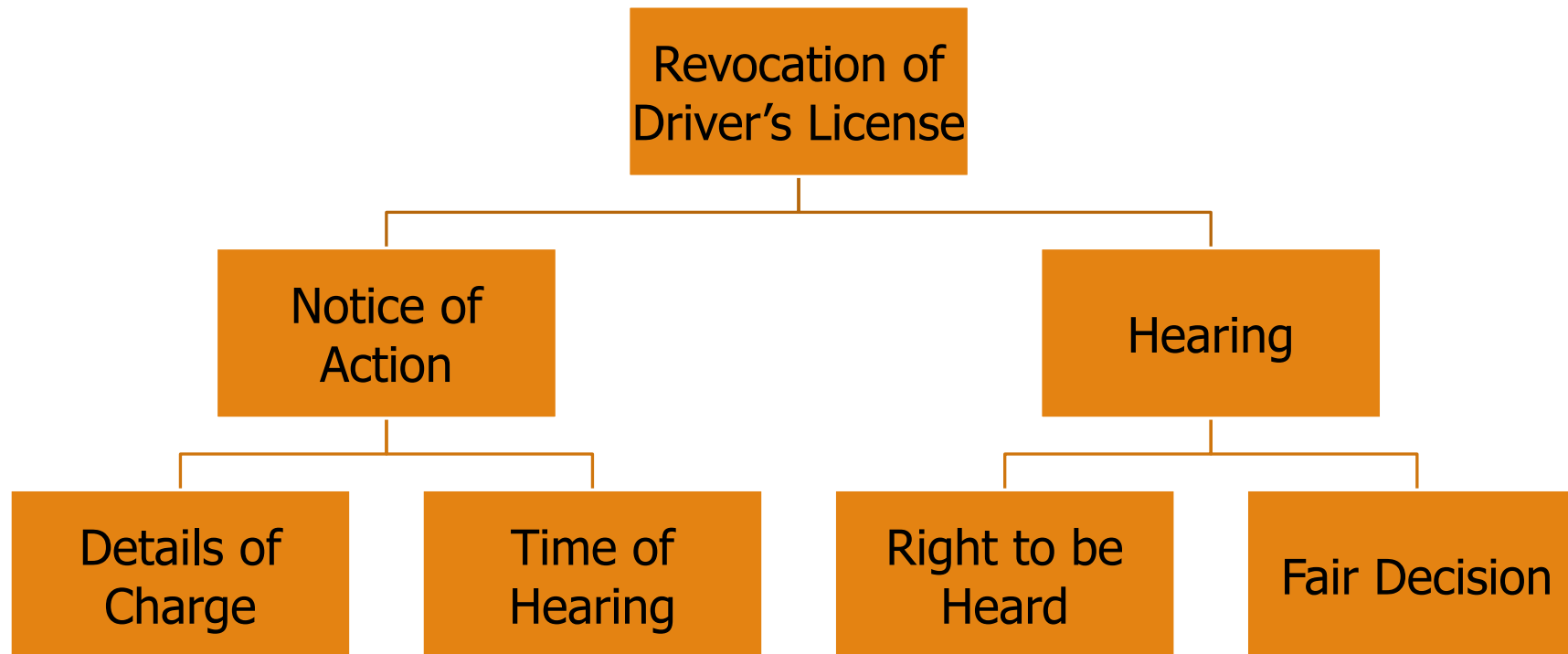
Discharged government employee

Taxpayer denied a tax exemption



# Client Rights

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# Substantive and Procedural Due Process

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## Substantive Due Process

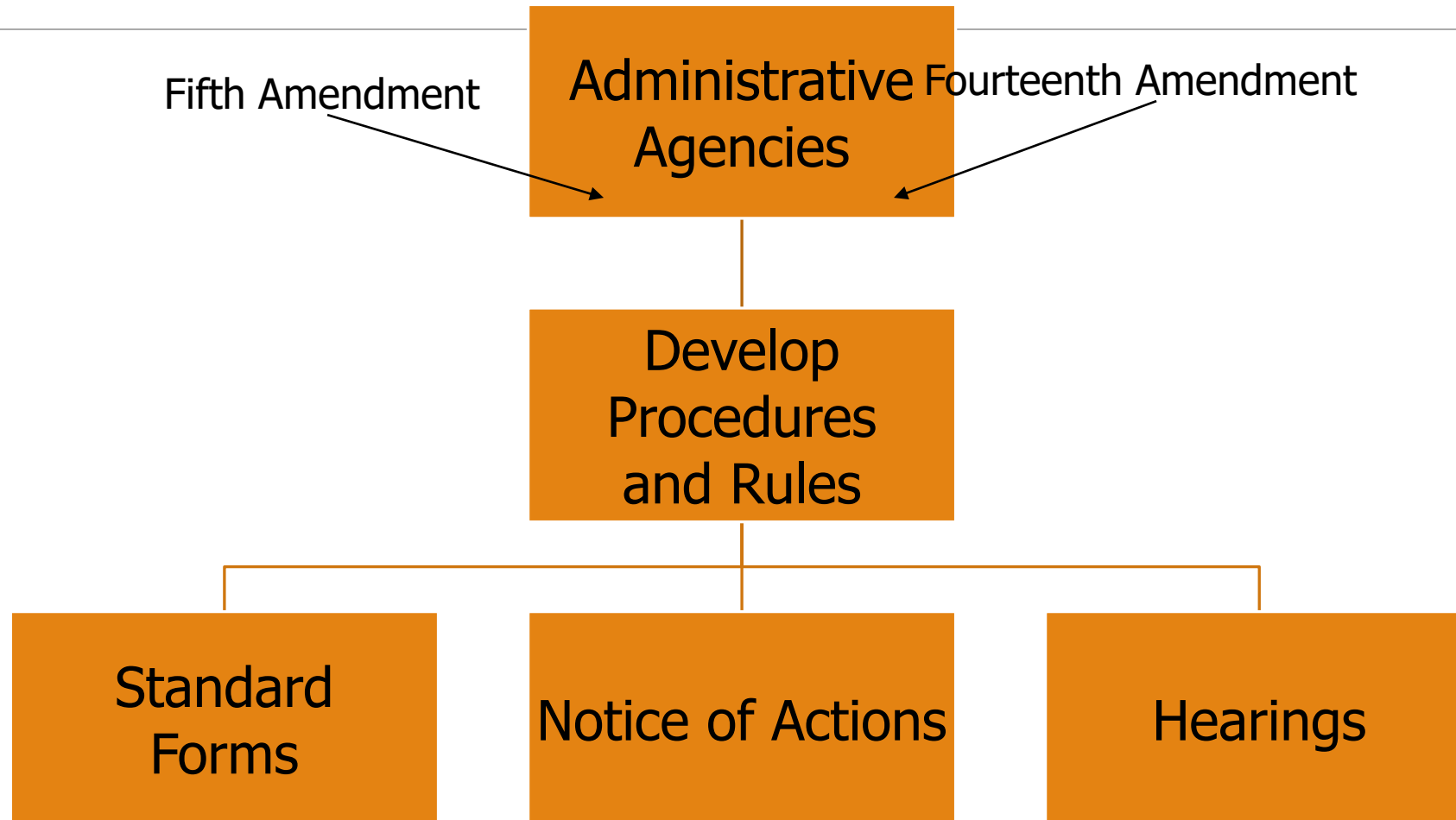
- (Broad)
- Citizens have right to be informed of agency actions

## Procedural Due Process

- (Specific)
- Agency must mail notice of hearing to parties with specific date, time, and action to be taken

# Due Process Amendments

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# Related Legislation

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The **Privacy Act** protects privacy of information.

The **Trade Secrets Act** protects privacy of business information.

The **Freedom of Information Act** protects access to information.

The **Sunshine Act** protects access to government meetings.

# Sovereign Immunity

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Cannot be sued for

- Discretionary acts
- Reasonable actions

Question: How and who decides an act was reasonable?

Can't sue just because the agency was wrong.

Can be sued for

- Unreasonable conduct
- Malicious conduct
- Actions where immunity waived by statute

Note: Difference between an agency being sued and an agency's decision or action being reviewed on appeal

## Harpooned Sharks for Chapter 4: One Shark Harpooned!

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