curred." [779] The Court is highly deferential, however, to school dismissal decisions based on academic grounds.[780]

The further one gets from traditional precepts of property, the more difficult it is to establish a due process claim based on entitlements. In *Town of Castle Rock v. Gonzales*,[781] the Court considered whether police officers violated a constitutionally protected property interest by failing to enforce a restraining order obtained by an estranged wife against her husband, despite having probable cause to believe the order had been violated. While noting statutory language that required that officers either use "every reasonable means to enforce [the] restraining order" or "seek a warrant for the arrest of the restrained person," the Court resisted equating this language with the creation of an enforceable right, noting a longstanding tradition of police discretion coexisting with apparently mandatory arrest statutes.[782] Finally, the Court even questioned whether finding that the statute contained mandatory language would have created a property right, as the wife, with no criminal enforcement authority herself, was merely an indirect recipient of the benefits of the governmental enforcement scheme.[783]

In *Arnett v. Kennedy*,[784] an incipient counter-revolution to the expansion of due process was rebuffed, at least with respect to entitlements. Three Justices sought to qualify the principle laid down in the entitlement cases and to restore in effect much of the right-privilege distinction, albeit in a new formulation. The case involved a federal law that provided that employees could not be discharged except for cause, and the Justices acknowledged that due process rights could be created through statutory grants of entitlements. The Justices, however, observed that the same law specifically withheld the procedural protections now being sought by the employees. Because "the property interest which appellee had in his

---

[779] Goss v. Lopez, 419 U.S. at 574. *See also* Barry v. Barchi, 443 U.S. 55 (1979) (horse trainer's license); O'Bannon v. Town Court Nursing Center, 447 U.S. 773 (1980) (statutory entitlement of nursing home residents protecting them in the enjoyment of assistance and care).

[780] Regents of the University of Michigan v. Ewing, 474 U.S. 214 (1985). Although the Court "assume[d] the existence of a constitutionally protectible property interest in . . . continued enrollment" in a state university, this limited constitutional right is violated only by a showing that dismissal resulted from "such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment." 474 U.S. at 225.

[781] 545 U.S. 748 (2005).

[782] 545 U.S. at 759. The Court also noted that the law did not specify the precise means of enforcement required; nor did it guarantee that, if a warrant were sought, it would be issued. Such indeterminancy is not the "hallmark of a duty that is mandatory." Id. at 763.

[783] 545 U.S. at 764–65.

[784] 416 U.S. 134 (1974).