

Congress recently enacted a statute creating a program that made federal loans available to family farmers who had been unable to obtain loans from private lenders. Congress appropriated a fixed sum of money to fund loans made pursuant to the program and gave a designated federal agency discretion to decide which applicants were to receive the loans.

Two weeks after the program was established, a family farmer applied to the agency for a loan. Agency officials promptly reviewed her application and summarily denied it.

The farmer has sued the agency in federal district court, claiming only that the denial of her application without the opportunity for a hearing violated the due process clause of the Fifth Amendment. The farmer claims that she could have proved at such a hearing that without the federal loan it would be necessary for her to sell her farm.

Should the court uphold the agency's decision?

- A. No, because due process requires federal agencies to provide a hearing before making any factual determination that adversely affects an identified individual based on his or her particular circumstances.
- B. No, because the denial of a loan may deprive the farmer of an established liberty interest to pursue her chosen occupation.
- C. Yes, because the applicable statute gives the farmer no legitimate claim of entitlement to receive a loan.
- D. Yes, because the spending clause of Article I, Section 8, gives Congress plenary power to control the distribution of appropriated funds in any manner it wishes.

## Explanation:

### Due process rights

Right	Applicability	Examples
<b>Life</b>	Government deprives person of life	<ul style="list-style-type: none"><li>• Execution</li></ul>
<b>Liberty</b>	Government significantly restrains person's physical freedom, exercise of fundamental rights, or freedom of choice	<ul style="list-style-type: none"><li>• Incarceration</li><li>• Commitment to mental institution</li><li>• Loss of parental rights</li></ul>
<b>Property</b>	Government deprives benefit from person legally entitled to receive it	<ul style="list-style-type: none"><li>• Suspension from public school</li><li>• Termination of welfare benefits</li><li>• Loss of public employment (not at will)</li></ul>

The **Fifth Amendment due process clause** requires that the **federal government** provide an individual with notice and a meaningful **opportunity to be heard** when it deprives that individual of life, liberty, or property. Under this clause, a **property interest** exists when an individual is **legally entitled to a benefit**—but mere anticipation of (or need for) a benefit does not create a protected interest.

Here, the farmer applied for a federal loan under the newly enacted statute. But she was not legally entitled to the loan because the statute gave a federal agency the discretion to decide which applicants would receive loans. And since her need for a loan was not an interest protected by the due process clause, the agency was not obligated to provide her with an opportunity for a hearing. Therefore, the agency's decision should be upheld.

**(Choice A)** Due process only requires a hearing when the government deprives an individual of a protected life, liberty, or property interest (not seen here).

**(Choice B)** Pursuing one's chosen occupation is not a liberty interest protected by the due process clause.

**(Choice D)** Although Article I, Section 8 gives Congress broad authority to control the distribution of appropriated funds, that authority is subject to many constitutional limitations—including the Fifth Amendment due process clause.

### Educational objective:

Fifth Amendment due process protections are triggered when the federal government deprives an individual of life, liberty, or property. An individual has a protected property interest when he/she is legally entitled to (not merely anticipating or needing) a benefit.

**References**

- Bd. of Regents of State Colls. v. Roth, 408 U.S. 564, 577 (1972) (defining property interests protected by procedural due process).

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