The basic principle that grants to states and individuals may be conditioned is now firmly established. "Congress has frequently employed the Spending Power to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives. This Court has repeatedly upheld against constitutional challenge the use of this technique to induce governments and private parties to cooperate voluntarily with federal policy."[645] In *South Dakota v. Dole*, however, the Court set forth several standards purporting to channel Congress' discretion in attaching these conditions.[646] While only one statute, discussed below, has been struck down as violating these standards, several statutes have been interpreted so as to conform to the guiding principles.

First, the conditions, like the spending itself, must advance the general welfare, but the determination of what constitutes the general welfare rests largely if not wholly with Congress.[647] Second, because a grant is "much in the nature of a contract" offer that the states may accept or reject,[648] Congress must set out the conditions unambiguously, so that the states may make an informed decision.[649] Third, the Court continues to state that the conditions must be related to the federal interest for which the funds are expended,[650] but it has never found a spending condition deficient un-

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[645] Fullilove v. Klutznick, 448 U.S. 448, 474 (1980) (Chief Justice Burger's opinion for the Court cited five cases to document the assertion: California Bankers Ass'n v. Shultz, 416 U.S. 21 (1974); Lau v. Nichols, 414 U.S. 563 (1974); Oklahoma v. Civil Service Comm'n, 330 U.S. 127 (1947); Helvering v. Davis, 301 U.S. 619 (1937); and Steward Machine Co. v. Davis, 301 U.S. 548 (1937).

[646] *See* South Dakota v. Dole, 483 U.S. 203, 207–12 (1987).

[647] 483 U.S. at 207 (1987). *See* discussion under Scope of the Power, *supra*.

[648] Barnes v. Gorman, 536 U.S. 181, 186 (2002) (holding that neither the Americans with Disabilities Act of 1990 nor section 504 of the Rehabilitation Act of 1973 subjected states to punitive damages in private actions).

[649] South Dakota v. Dole, 483 U.S. at 207. The requirement appeared in Pennhurst State School & Hosp. v. Halderman, 451 U.S. 1, 17 (1981). *See also* Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 246 (1985) (Rehabilitation Act does not clearly signal states that participation in programs funded by the act constitutes waiver of immunity from suit in federal court); Gonzaga Univ. v. Doe, 536 U.S. 273 (2002) (no private right of action was created by the Family Educational Rights and Privacy Act); Arlington Central School Dist. Bd. of Educ. v. Murphy, 548 U.S. 291 (2006) (because the Individuals with Disabilities Education Act (IDEA), which was enacted pursuant to the Spending Clause, does not furnish clear notice to states that prevailing parents may recover fees for services rendered by experts in IDEA actions, it does not authorize recovery of such fees).

[650] South Dakota v. Dole, 483 U.S. at 207–08. *See* Steward Machine Co. v. Davis, 301 U.S. 548, 590 (1937); Ivanhoe Irrigation Dist. v. McCracken, 357 U.S. 275, 295 (1958).