the individual, not by the State." Finally, the Court concluded, there was no evidence that "any significant portion of the aid expended under the Washington program as a whole will end up flowing to religious education." [135]

In *Zobrest v. Catalina Foothills School District* [136] the Court reaffirmed this line of reasoning. The case involved the provision of a sign language interpreter pursuant to the Individuals with Disabilities Education Act (IDEA) [137] to a deaf high school student who wanted to attend a Catholic high school. In upholding the assistance as constitutional, the Court emphasized that "[t]he service at issue in this case is part of a general government program that distributes benefits neutrally to any child qualifying as 'disabled' under the IDEA, without regard to the 'sectarian-nonsectarian, or public-nonpublic nature' of the school the child attends." Thus, it held that the presence of the interpreter in the sectarian school resulted not from a decision of the state but from the "private decision of individual parents." [138]

Finally, in *Zelman v. Simmons-Harris* [139] the Court reinterpreted the genuine private choice criterion in a manner that seems to render most voucher programs constitutional. At issue was an Ohio program that provided vouchers to the parents of children in failing public schools in Cleveland for use at private schools in the city. The Court upheld the program notwithstanding that, as in *Nyquist*, most of the schools at which the vouchers could be redeemed were religious and most of the voucher students attended such schools. But the Court found that the program nevertheless involved "true private choice." [140] "Cleveland schoolchildren," the Court said, "enjoy a range of educational choices: They may remain in public school as before, remain in public school with publicly funded tutoring aid, obtain a scholarship and choose a religious school, obtain a scholarship and choose a nonreligious private school, enroll in a community school, or enroll in a magnet school. That 46 of the 56 private schools now participating in the program are religious schools does not condemn it as a violation of the Establishment Clause. The Establishment Clause question is whether Ohio is coercing parents into sending their children to religious schools, and that question must be answered by evaluating *all* options Ohio provides Cleve-

---

[135] 474 U.S. at 488.
[136] 509 U.S. 1 (1993).
[137] 20 U.S.C. §§ 1400 *et seq*.
[138] 509 U.S. at 10.
[139] 536 U.S. at 639 (2002).
[140] 536 U.S. at 653.