one sectarian enterprise"; and "the programs in effect subsidize the religious functions of the parochial schools by taking over a substantial portion of their responsibility for teaching secular subjects."[99] In *Aguilar v. Felton*,[100] the Court invalidated a program under which public school employees provided instructional services on parochial school premises to educationally deprived children. The program differed from those at issue in *Grand Rapids* because the classes were closely monitored for religious content. This "pervasive monitoring" did not save the program, however, because, by requiring close cooperation and day-to-day contact between public and secular authorities, the monitoring "infringes precisely those Establishment Clause values at the root of the prohibition of excessive entanglement."[101]

A state program to reimburse nonpublic schools for a variety of services mandated by state law was voided because the statute did not distinguish between secular and potentially religious services, the costs of which the state would reimburse.[102] Similarly, a program of direct monetary grants to nonpublic schools to be used for the maintenance of school facilities and equipment failed to survive the primary effect test because it did not restrict payment to those expenditures related to the upkeep of facilities used exclusively for secular purposes and because "within the context of these religion-oriented institutions" the Court could not see how such restrictions could effectively be imposed.[103] But a plan of direct monetary grants to nonpublic schools to reimburse them for the costs of state-mandated record-keeping and of administering and grading state-prepared tests and that contained safeguards against reli-

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[99] 473 U.S. at 397.

[100] 473 U.S. 402 (1985). This was another 5–4 decision, with Justice Brennan's opinion of the Court being joined by Justices Marshall, Blackmun, Powell, and Stevens, and with Chief Justice Burger and Justices White, Rehnquist, and O'Connor dissenting.

[101] 473 U.S. at 413.

[102] Levitt v. Committee for Public Educ. & Religious Liberty, 413 U.S. 472 (1973). Justice White dissented, id. at 482. The most expensive service to be reimbursed for nonpublic schools was the "administration, grading and the compiling and reporting of the results of tests and examinations." Id. at 474–75. In New York v. Cathedral Academy, 434 U.S. 125 (1977), the Court struck down a new statutory program entitling private schools to obtain reimbursement for expenses incurred during the school year in which the prior program was voided in *Levitt*.

[103] Committee for Pub. Educ. and Religious Liberty v. Nyquist, 413 U.S. 756, 774–80 (1973). Chief Justice Burger and Justice Rehnquist concurred, id. at 798, and Justice White dissented, id. at 820.