schools. Indeed, in its most recent decisions the Court has overturned several of the most restrictive school aid precedents from its earlier jurisprudence. Throughout, the Court has allowed greater discretion with respect to aid programs benefiting religiously affiliated colleges and social services agencies.

A secular purpose is the first requirement of the *Lemon* tripartite test to sustain the validity of legislation touching upon religion, and upon this standard the Justices display little disagreement. There are adequate legitimate, non-sectarian bases for legislation to assist nonpublic, religious schools: preservation of a healthy and safe educational environment for all school children, promotion of pluralism and diversity among public and nonpublic schools, and prevention of overburdening of the public school system that would accompany the financial failure of private schools.[66]

The primary secular effect and no excessive entanglement aspects of the *Lemon* test, however, have proven much more divisive. As a consequence, the Court's applications of these tests have not always been consistent, and the rules guiding their application have not always been easy to decipher. Moreover, in its most recent decisions the Court has substantially modified the strictures these tests have previously imposed on public aid to pervasively sectarian entities.

In applying the primary effect and excessive entanglement tests, the Court has drawn a distinction between public aid programs that directly aid sectarian entities and those that do so only indirectly. Aid provided directly, the Court has said, must be limited to secular use lest it have a primary effect of advancing religion. The Establishment Clause "absolutely prohibit[s] government-financed or government-sponsored indoctrination into the beliefs of a particular religious faith."[67] The government may provide direct support to the secular services and programs sponsored by religious entities, but it cannot directly subsidize such organizations' religious activities or proselytizing.[68] Thus, the Court struck down as unconstitutional a program providing grants for the maintenance and repair of sectarian elementary and secondary school facilities, because the grants had no restrictions to prevent their use for such purposes as defraying the costs of building or maintaining chapels

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[66] Committee for Public Educ. & Religious Liberty v. Nyquist, 413 U.S. 756, 773 (1973). *See also* id. at 805 (Chief Justice Burger dissenting), 812–13 (Justice Rehnquist dissenting), 813 (Justice White dissenting). *See also* Wolman v. Walter, 433 U.S. 229, 240 (1977) (plurality opinion); Committee for Public Educ. and Religious Liberty v. Regan, 444 U.S. 646, 653–54 (1980), and id. at 665 (Justice Blackmun dissenting).

[67] Grand Rapids School District v. Ball, 473 U.S. 373, 385 (1985).

[68] Lemon v. Kurtzman, 403 U.S. 602 (1971); Committee for Public Educ. & Religious Liberty v. Nyquist, 413 U.S. 756 (1973); Mitchell v. Helms, 530 U.S. 793 (2000).