School puts its principles first

Trades federal loans for its independence

By John Ritter
USA TODAY

GROVE CITY, Pa. — The little college with the proud tradition had a choice: Give the government what it wanted or lose federal student loan eligibility.

Grove City College had balked at a similar federal mandate two decades ago, and the result was a highly publicized Supreme Court case.

This time the decision was easy: Lose the loan eligibility.

Grove City is one of only two colleges in the nation to have totally freed itself from federal regulation. The other is Hillsdale College in Michigan.

It is a state of grace other institutions dream about but few could pull off.

How Grove City did it, and why — is a study in the vagaries of education law and one institution's unwavering commitment to long-held ideals.

The Education Department makes colleges comply with 7,000 regulations under the laws authorizing student grants and loans. But when Grove City thought the government had overstepped, it refused to yield.

"They have a history of making bold and principled decisions," says David Warren, president of the Association of Independent Colleges and Universities. "And a lot of college presidents sympathize with what they've done."

Grove City's 2,300 students won't see much change. A private program through a Pittsburgh bank replaces federally backed loans. The college will guarantee them instead of the government. Interest rates will match the government's, but students will be able to borrow more. The college will be spared the time and cost of complying with regulations.

But why go to the trouble? Guaranteed federal loans have been reliable sources of financial aid for three decades. Last year, 3.16 million students borrowed $20.4 billion.

The answer goes back to 1977, when the government required colleges, as a condition of getting federal aid, to sign an agreement complying with Title IX, the law banning sex discrimination.

By Greg Lanier

On the campus of Grove City College: With its 'history of making bold and principled decisions,' Grove City is one of only two colleges in the nation to have totally freed itself from federal regulation.

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But the agreement went beyond Title IX, binding colleges to future regulations. Grove City resisted, then sued in federal court and won. An appeals court reversed the ruling, and the Supreme Court took the case in 1983.

Grove City College vs. Bell became a rallying cry against sex bias, even though an administrative judge had found "not the slightest hint of failure to comply" with Title IX.

The Supreme Court, in what seemed a victory for Grove City, ruled that the government could regulate only the college's financial aid office, not the entire institution.

But even that was too much for the school. It dropped out of the grant program in 1984. It stayed in the loan program because the courts had ruled loans weren't a type of aid.

"But we figured that shoe would drop at some point," says David Lascell, the college's lawyer.

In 1988 Congress passed, over President Reagan's veto, the Civil Rights Restoration Act. It says that if a single student gets $1 in federal aid, a college must comply with all higher education regulations.

Four years later, lawmakers stiffened the accountability for federal aid money. And this year, the Education Department insisted that Grove City sign a wide-ranging "participation agreement" and provide detailed financial information.

"We thought it was excessive," says college president John Moore.

For Grove City, to act differently would have been inconsistent. It has clung doggedly to its mission since 1876: Offer a first-rate education within reach of middle-class families who want a school that "strengthens their children's spiritual and moral character."

Grove City finds many of its practices in vogue at a time of steeply rising tuition and debate over educational values.

Students abide by a strict behavior code that forbids alcohol or premarital sex on campus. Classes are small, there's no tenure, and every professor carries a full teaching load.

"They have a very clear niche and have worked hard to earn it," Warren says.

Money magazine's annual college guide consistently rates Grove City among the top five private schools nationwide — ahead of Harvard, Princeton and Stanford, among others — based on cost, student-faculty ratio, freshmen class rank and SAT scores. Tuition, fees and room and board, including a computer and printer, run about $11,000 a year.

But few other institutions could duplicate the formula or get out from under federal regulation. Any that get federal research money couldn't. Those with high default rates would find private student loan sources hard to come by.

At Grove City, dumping the loans caused hardly a ripple.

"It's not a big deal," says Jeremy John, 19, a sophomore from Bloomsburg, Pa. "I think the school felt a little pressure that the government might get some pull with the money."

Special ed: Is the price too high?

Critics say soaring costs for disabled students means others suffer

By Richard Whitmire
Gannett News Service

DAYTON — Like other severely disabled children across the USA, the students in Elaine Fouts' class receive a legally guaranteed "appropriate" education that includes teachers, aides, physical and speech therapists.

The yearly per-pupil price tag: $25,000.

The remaining Dayton students, like millions of so-called general education pupils across the nation, lack any legal guarantee of an "appropriate" education — and get what's left over.

The yearly per-pupil price tag: $5,611.

This is the cruel-but-true bottom line most school superintendents won't even discuss: Soaring special education costs, along with inflation, are responsible for flat or decreasing spending on regular education students in many districts across the USA.

One educator predicts that the day general education parents discover this truth, there will be a "train wreck" — a battle that pits spending for the disabled against spending for the non-disabled.

"When Congress voted on this 20 years ago, they didn't know what they were doing," says blunt-spoken Dayton school superintendent James Williams. "This is going to bankrupt this system eventually, or any system."

Suggesting that children with disabilities are robbing "normal" children of educational funding is so politically incorrect that few educators will discuss it, even off the record.

But Williams, who sees a swarm of unmet needs for his general education students, has no such qualms. He asks, for example, why schools should pick up the tab for school nurses to care for children born exposed to crack cocaine.

"I want to be held accountable for teaching," Williams says. "Why should I provide nurses? I'm not saying we don't need them, but someone else should be paying for them."

By Keith Cowgill, Gannett News Service

Elizabeth Hagton: She fights to stem rising costs of special ed.

Paul Marchand of The Arc, a national advocacy group for the mentally retarded, reacts strongly to any suggestion that special education is stealing funds from regular education.

"You would think special education kids around the country are getting Cadillacs while the regular education kids are getting Chevys," Marchand says. "That's not true."

Certainly, he acknowledges, there has been a rise in special ed spending over the last 20 years since enactment of the Individuals with Disabilities Education Act (IDEA). And that's good, he says.

"Twenty years ago, 25% of the kids were getting nothing," Marchand says. "Of course, there are going to be substantially higher costs for schools finally meeting their legal responsibilities. That should be obvious to everyone."

He agrees there is a crisis in funding special education. "But to put the onus on the backs of kids with disabilities is just shameful," he says.

Congress never envisioned this kind of confrontation two decades ago when it enacted badly needed laws to rescue special education students from classes in school boiler rooms. Congress guaranteed them an "appropriate" education, known today as the IDEA.

But back then there was no way to predict the rising numbers of children damaged at birth because their mothers were alcoholics or drug users; the soaring numbers of children diagnosed with ill-defined "learning disorders"; the disabilities arising from the poor getting poorer; the dramatic delivery-room advances that save the lives of scores of children but often set into motion learning problems that surface later.

"The federal government passed a law and promised to pay 40% of the budget. They did not; they now pay 6%," says Dena Stoner of the Council for Educational Development and Research, a trade association for education researchers.

As a result, local schools pick up the tab: Congress' legal guarantees worked so long as overall school budgets and special education budgets rose together, but that is no longer the case.

Stoner's group is about to release a major report documenting flat spending on regular education amid soaring spending on special education. The problem, she says, is that while local school spending stays even, special education expenses — protected by law — must come off the top.

"The rule of thumb, developed years ago, is that special education students cost 2.3 times as much as regular education students," Stoner says. "There is reason to believe that is an underestimation."

Today, special ed students make up about 12% of the school population. In 1991, those students absorbed nearly 4 out of every 10 new dollars added to school budgets, according to a study by the Economic Policy Institute.

In Dayton, the special ed population has risen from 11% to 14.5% over the last five years. In the last 10 years, its special ed budget has soared from $10 million to $19 million, swallowing up any fresh monies available to the district and eating into regular education projects that Williams wants to fund.

Veteran special education director Elizabeth Hagton fights rising costs by resisting the cost drivers she has some control over — teachers trying to unload children with behavior problems, principals trying to improve a school's test scores by shifting poorly performing students to special education and parents wielding lawyers to demand one-on-one aides for their children.

Last year when Williams perused his budget priorities, he knew what he wanted to do: Renovate science labs, reduce class sizes, bring more children into full-day kindergartens.

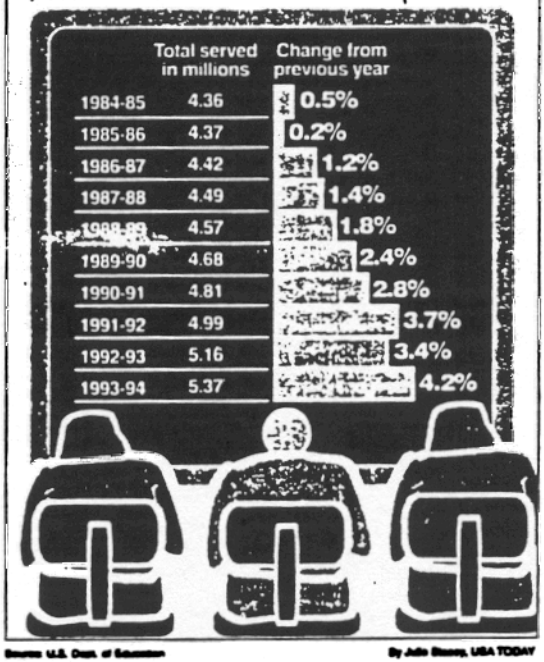
But he also knew what the law told him he had to do: Delay those priorities to absorb special ed costs. For example, because a girl who used a wheelchair was switching schools, the parking lot at the new school had to be blacktopped to smooth the way — just like the parking lot at her old school. Cost for both jobs: $90,000.

Williams says there is no question that rising special education costs limit the elementary school test score improvements he wants. Hundreds of incoming kindergartners, most from poor neighborhoods, need speech pathologists and other extra help to overcome the difficulties of growing up in poverty — help he cannot afford with special education laying first claim to budget dollars.

"We have to find another way to fund special education," Williams says.

A growing population

The number of special education students rises again. Increase of 4.2% is the largest since the Disabilities Act passed in 1976.



Source: U.S. Dept. of Education

By Julie Stacey, USA TODAY

Rehnquist court fast becoming clear champion of states' rights

By Aaron Epstein
KNIGHT RIDDER NEWSPAPERS

WASHINGTON — The Supreme Court of Chief Justice William H. Rehnquist, now 13 years old, has emerged as a potent check on the power of the national government.

Just before slipping away early for a summer rest, Rehnquist and his four conservative allies on the Supreme Court showed what they care most passionately about:

Not so much how they have changed the law on such hot-button issues as race or religion, which they have done, but their powerful, yet still incomplete, impact on the fundamental design of government itself.

They are forcing a dramatic shift in the balance of state and federal power — away from Washington and toward the states' capitals.

Walter Dellinger, a constitutional law professor at Duke University and former acting solicitor general for the Clinton administration, described the Rehnquist court as supremely confident now in its willingness to hurl its gavel at Congress.

ANALYSIS

"By my count, the court has invalidated 11 acts of Congress in the last three years. We've seen nothing like this since the 1930s," Dellinger said.

The court's doctrinal realignment of the federal-state structure is of little interest to most Americans. But the court's constitutional reconstruction has practical consequences for real people that will have an even greater impact in the future, unless an appointment robs the conservatives of a pivotal fifth vote.

3 votes were 5-4

In three identical 5-4 votes announced at the end of a generally dull term, the court allowed the states to ignore provisions in labor, patent and unfair-competition laws enacted by Congress.

The conservative majority held that without the consent of the states, 4.7 million state employees cannot sue when they are underpaid in violation of federal minimum wage or overtime requirements. And without the consent of the states, businesses and patent holders cannot sue state universities or agencies that enter the marketplace and infringe on private patents or compete unfairly in violation of federal laws.

Why? The states have "sovereign immunity" from private lawsuits.

Those words cannot be found in the text of the Constitution. But, the court's conservatives said, the concept is embedded in the design of the nation's governmental structure, making it an essential, inviolable element of the division of power between Washington and the state capitals.

And it is on this closely divided issue, and no other, that the Supreme Court's five conservative justices invariably stick together, leaving the four moderate-liberals feeling helpless and unreconciled, and hoping that this slenderest of majorities will dissolve with the next presidential appointment, or the one after that.

On other close questions, the shifting votes of the two centrist justices, Anthony Kennedy and Sandra Day O'Connor, usually prove decisive.

But in the states'-rights cases, there are no swing justices. The majority consists of Rehnquist, Antonin Scalia, Clarence Thomas, Kennedy and O'Connor.

All but Thomas were appointed to the current lifetime positions by President Ronald Reagan, a champion of curbing national power. Republican President George Bush nominated Thomas.

The consistent dissenters in the states'-rights cases are John Paul Stevens and David Souter and Clinton appointees Ruth Bader Ginsburg and Steven Breyer.

How long will the thin conservative majority endure? At least for the remainder of this administration. Republicans controlling the Senate would be unlikely to confirm another nominee of President Clinton's, especially with only 18 months left in his term.

The conservative majority could disappear if another Democratic president fills a vacancy caused by the departure of a conservative justice — most likely Rehnquist, who turns 75 on Oct. 1, or O'Connor, 69. On the other hand, the election of a Republican president and the departure of the oldest liberal, Stevens, 79, could strengthen the court's conservative margin.

More cases on docket

Meanwhile, more states'-rights cases have arrived in the court's mail. The justices already have agreed to decide whether state employees in Florida can sue the state for violating the federal law against age discrimination.

The 1990s trend toward limiting federal power began seven years ago, when the Supreme Court ruled that Congress had improperly required the states either to control lower-level radioactive waste or to assume ownership of the waste.

But Rehnquist foretold the direction in which he would later take the court in 1985, when the court ruled 5-4 in the case of *Garcia vs. San Antonio Metropolitan Transit Authority* that state government workers are covered by the Fair Labor Standards Act, a federal law prescribing minimum wages and hours in the workplace.

Rehnquist, then an associate justice, dissented, predicting that in time, the *Garcia* decision would no longer "command the support of a majority of this court."

That is true today. But *Garcia* remains good law. Rehnquist's majority did not overturn it.

But it shut both state and federal courthouses to private lawsuits for money owed, leaving state workers with a right they cannot enforce.