SUPREME COURT OF THE UNITED STATES

No. 99–1908

JAMES ALEXANDER, DIRECTOR, ALABAMA DEPARTMENT OF PUBLIC SAFETY, ET AL., PETITIONERS
v. MARTHA SANDOVAL, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[April 24, 2001]

JUSTICE SCALIA delivered the opinion of the Court.

This case presents the question whether private individuals may sue to enforce disparate-impact regulations promulgated under Title VI of the Civil Rights Act of 1964.

I

The Alabama Department of Public Safety (Department), of which petitioner James Alexander is the Director, accepted grants of financial assistance from the United States Department of Justice (DOJ) and Department of Transportation (DOT) and so subjected itself to the restrictions of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, as amended, 42 U. S. C. §2000d *et seq*. Section 601 of that Title provides that no person shall, "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity" covered by Title VI. 42 U. S. C. §2000d. Section 602 authorizes federal agencies "to effectuate the provisions of [§601] . . . by issuing rules, regulations, or orders of general applica-

bility,"42 U. S. C. §2000d–1, and the DOJ in an exercise of this authority promulgated a regulation forbidding funding recipients to "utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin . . . ." 28 CFR §42.104(b)(2) (1999). See also 49 CFR §21.5(b)(2) (2000) (similar DOT regulation).

The State of Alabama amended its Constitution in 1990 to declare English "the official language of the state of Alabama." Amdt. 509. Pursuant to this provision and, petitioners have argued, to advance public safety, the Department decided to administer state driver's license examinations only in English. Respondent Sandoval, as representative of a class, brought suit in the United States District Court for the Middle District of Alabama to enjoin the English-only policy, arguing that it violated the DOJ regulation because it had the effect of subjecting non-English speakers to discrimination based on their national origin. The District Court agreed. It enjoined the policy and ordered the Department to accommodate non-English speakers. *Sandoval* v. *Hagan,* 7 F. Supp. 2d 1234 (1998). Petitioners appealed to the Court of Appeals for the Eleventh Circuit, which affirmed. *Sandoval* v. *Hagan,* 197 F. 3d 484 (1999). Both courts rejected petitioners' argument that Title VI did not provide respondents a cause of action to enforce the regulation.

We do not inquire here whether the DOJ regulation was authorized by §602, or whether the courts below were correct to hold that the English-only policy had the effect of discriminating on the basis of national origin. The petition for writ of certiorari raised, and we agreed to review, only the question posed in the first paragraph of this opinion: whether there is a private cause of action to enforce the regulation. 530 U. S. 1305 (2000).

II

Although Title VI has often come to this Court, it is fair to say (indeed, perhaps an understatement) that our opinions have not eliminated all uncertainty regarding its commands. For purposes of the present case, however, it is clear from our decisions, from Congress's amendments of Title VI, and from the parties' concessions that three aspects of Title VI must be taken as given. First, private individuals may sue to enforce §601 of Title VI and obtain both injunctive relief and damages. In *Cannon* v. *University of Chicago,* 441 U. S. 677 (1979), the Court held that a private right of action existed to enforce Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U. S. C. §1681 *et seq*. The reasoning of that decision embraced the existence of a private right to enforce Title VI as well. "Title IX," the Court noted, "was patterned after Title VI of the Civil Rights Act of 1964." 441 U. S., at 694. And, "[i]n 1972 when Title IX was enacted, the [parallel] language in Title VI had already been construed as creating a private remedy." *Id.,* at 696. That meant, the Court reasoned, that Congress had intended Title IX, like Title VI, to provide a private cause of action. *Id.,* at 699, 703, 710–711. Congress has since ratified *Cannon*'s holding. Section 1003 of the Rehabilitation Act Amendments of 1986, 100 Stat. 1845, 42 U. S. C. §2000d–7, expressly abrogated States' sovereign immunity against suits brought in federal court to enforce Title VI and provided that in a suit against a State "remedies (including remedies both at law and in equity) are available . . . to the same extent as such remedies are available . . . in the suit against any public or private entity other than a State," §2000d–7(a)(2). We recognized in *Franklin* v. *Gwinnett County Public Schools,* 503 U. S. 60 (1992), that §2000d–7 "cannot be read except as a validation of *Cannon*'s holding." *Id.,* at 72; see also *id.,* at 78 (SCALIA, J., concurring in judgment) (same). It is thus beyond dispute

that private individuals may sue to enforce §601.

Second, it is similarly beyond dispute— and no party disagrees— that §601 prohibits only intentional discrimination. In *Regents of Univ. of Cal.* v. *Bakke,* 438 U. S. 265 (1978), the Court reviewed a decision of the California Supreme Court that had enjoined the University of California Medical School from "according any consideration to race in its admissions process." *Id.,* at 272. Essential to the Court's holding reversing that aspect of the California court's decision was the determination that §601 "proscribe[s] only those racial classifications that would violate the Equal Protection Clause or the Fifth Amendment." *Id.,* at 287 (opinion of Powell, J.); see also *id.,* at 325, 328, 352 (opinion of Brennan, White, Marshall, and Blackmun, JJ.). In *Guardians Assn.* v. *Civil Serv. Comm'n of New York City,* 463 U. S. 582 (1983), the Court made clear that under *Bakke* only intentional discrimination was forbidden by §601. 463 U. S., at 610–611 (Powell, J., joined by Burger, C. J., and REHNQUIST, J., concurring in judgment); *id.,* at 612 (O'CONNOR, J., concurring in judgment); *id.,* at 642 (STEVENS, J., joined by Brennan and Blackmun, JJ., dissenting). What we said in *Alexander* v. *Choate,* 469 U. S. 287, 293 (1985), is true today: "Title VI itself directly reach[es] only instances of intentional discrimination."[1]

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[1] Since the parties do not dispute this point, it is puzzling to see JUSTICE STEVENS go out of his way to disparage the decisions in *Regents of Univ. of Cal.* v. *Bakke,* 438 U. S. 265 (1978), and *Guardians Assn.* v. *Civil Serv. Comm'n of New York City,* 463 U. S. 582 (1983), as "somewhat haphazard," *post,* at 16, particularly since he had already accorded *stare decisis* effect to the former 18 years ago, see *Guardians,* 463 U. S., at 639–642 (dissenting opinion), and since he participated in creating the latter, see *ibid.* Nor does JUSTICE STEVENS' reliance on *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U. S. 837 (1984), see *post,* at 17–18, explain his aboutface, since he expressly reaffirms, see *post,* at 17–18, n. 18, the settled principle that decisions of this Court declaring the meaning of statutes prior to *Chevron* need not be reconsid-

Third, we must assume for purposes of deciding this case that regulations promulgated under §602 of Title VI may validly proscribe activities that have a disparate impact on racial groups, even though such activities are permissible under §601. Though no opinion of this Court has held that, five Justices in *Guardians* voiced that view of the law at least as alternative grounds for their decisions, see 463 U. S., at 591–592 (opinion of White, J.); *id.,* at 623, n. 15 (Marshall, J., dissenting); *id.,* at 643–645 (STEVENS, J., joined by Brennan and Blackmun, JJ., dissenting), and dictum in *Alexander* v. *Choate* is to the same effect, see 469 U. S., at 293, 295, n. 11. These statements are in considerable tension with the rule of *Bakke* and *Guardians* that §601 forbids only intentional discrimination, see, *e.g., Guardians Assn.* v. *Civil Serv. Comm'n of New York City, supra,* at 612–613 (O'CONNOR, J., concurring in judgment), but petitioners have not challenged the regulations here. We therefore assume for the purposes of deciding this case that the DOJ and DOT regulations proscribing activities that have a disparate impact on the basis of race are valid.

Respondents assert that the issue in this case, like the first two described above, has been resolved by our cases. To reject a private cause of action to enforce the disparate-impact regulations, they say, we would "[have] to ignore the actual language of *Guardians* and *Cannon*." Brief for Respondents 13. The language in *Cannon* to which respondents refer does not in fact support their position, as

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ered after *Chevron* in light of agency regulations that were already in force when our decisions were issued, *Lechmere, Inc.* v. *NLRB,* 502 U. S. 527, 536–537 (1992); *Maislin Industries, U. S., Inc.* v. *Primary Steel, Inc.,* 497 U. S. 116, 131 (1990); see also *Sullivan* v. *Everhart,* 494 U. S. 83, 103–104, n. 6 (1990) (STEVENS, J., dissenting) ("It is, of course, of no importance that [an opinion] predates *Chevron* . . . . As we made clear in *Chevron,* the interpretive maxims summarized therein were 'well-settled principles'").

we shall discuss at length below, see *infra*, at 12–13. But in any event, this Court is bound by holdings, not language. *Cannon* was decided on the assumption that the University of Chicago had intentionally discriminated against petitioner. See 441 U. S., at 680 (noting that respondents "admitted *arguendo*" that petitioner's "application for admission to medical school was denied by the respondents because she is a woman"). It therefore *held* that Title IX created a private right of action to enforce its ban on intentional discrimination, but had no occasion to consider whether the right reached regulations barring disparate-impact discrimination.[2] In *Guardians*, the Court *held* that private individuals could not recover compensatory damages under Title VI except for intentional discrimination. Five Justices in addition voted to uphold the disparate-impact regulations (four would have declared them invalid, see 463 U. S., at 611, n. 5 (Powell, J., concurring in judgment); *id.*, at 612–614 (O'CONNOR, J., concurring in

[2] Although the dissent acknowledges that "the breadth of [*Cannon*'s] precedent is a matter upon which reasonable jurists may differ," *post,* at 21, it disagrees with our reading of *Cannon*'s holding because it thinks the distinction we draw between disparate-impact and intentional discrimination was "wholly foreign" to that opinion, see *post,* at 5. *Cannon*, however, was decided less than one year after the Court in *Bakke* had drawn precisely that distinction *with respect to Title VI*, see *supra,* at 4, and it is absurd to think that *Cannon* meant, without discussion, to ban under Title IX the very disparate-impact discrimination that *Bakke* said Title VI permitted. The *only* discussion in *Cannon* of Title IX's scope is found in Justice Powell's dissenting opinion, which simply assumed that the conclusion that Title IX would be limited to intentional discrimination was "forgone in light of our holding" in *Bakke*. *Cannon* v. *University of Chicago,* 441 U. S. 677, 748, n. 19 (1979). The dissent's additional claim that *Cannon* provided a private right of action for "all the discrimination prohibited by the *regulatory scheme* contained in Title IX," *post,* at 5, n. 4 (emphasis added), simply begs the question at the heart of this case, which is whether a right of action to enforce disparate-impact regulations must be independently identified, see *infra,* at 7–10.

judgment)), but of those five, three expressly reserved the question of a direct private right of action to enforce the regulations, saying that "[w]hether a cause of action against private parties exists directly under the regulations . . . [is a] questio[n] that [is] not presented by this case." *Id.,* at 645, n. 18 (STEVENS, J., dissenting).[3] Thus, only two Justices had cause to reach the issue that respondents say the "actual language" of *Guardians* resolves. Neither that case,[4] nor any other in this Court, has held that the private right of action exists.

Nor does it follow straightaway from the three points we have taken as given that Congress must have intended a private right of action to enforce disparate-impact regulations. We do not doubt that regulations applying §601's ban on intentional discrimination are covered by the cause of action to enforce that section. Such regulations, if valid and reasonable, authoritatively construe the statute itself, see *NationsBank of N. C., N. A.* v. *Variable Annuity Life Ins. Co.,* 513 U. S. 251, 257 (1995); *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U. S. 837, 843–844 (1984), and it is therefore meaningless to talk

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[3] We of course accept the statement by the author of the dissent that he "thought" at the time of *Guardians* that disparate-impact regulations could be enforced "in an implied action against private parties," *post,* at 9, n. 6. But we have the better interpretation of what our colleague *wrote* in *Guardians.* In the closing section of his opinion, JUSTICE STEVENS concluded that because respondents in that case had "violated the petitioners' rights under [the] regulations . . . [t]he petitioners were therefore entitled to the compensation they sought under 42 U. S. C. §1983 and were awarded by the District Court." 463 U. S., at 645. The passage omits any mention of a direct private right of action to enforce the regulations, and the footnote we have quoted in text– which appears immediately after this concluding sentence, see *id.,* at 645, n. 18– makes clear that the omission was not accidental.

[4] Ultimately, the dissent agrees that "the holding in *Guardians* does not compel the conclusion that a private right of action exists to enforce the Title VI regulations against private parties . . . ." *Post,* at 9.

about a separate cause of action to enforce the regulations apart from the statute. A Congress that intends the statute to be enforced through a private cause of action intends the authoritative interpretation of the statute to be so enforced as well. The many cases that respondents say have "assumed" that a cause of action to enforce a statute includes one to enforce its regulations illustrate (to the extent that cases in which an issue was not presented can illustrate anything) only this point; each involved regulations of the type we have just described, as respondents conceded at oral argument, Tr. of Oral Arg. 33. See *National Collegiate Athletic Assn.* v. *Smith,* 525 U. S. 459, 468 (1999) (regulation defining who is a "recipient" under Title IX); *School Bd. of Nassau Cty.* v. *Arline,* 480 U. S. 273, 279–281 (1987) (regulations defining the terms "physical impairment" and "major life activities" in §504 of the Rehabilitation Act of 1973); *Bazemore* v. *Friday,* 478 U. S. 385, 408–409 (1986) (White, J., joined by four other Justices, concurring) (regulation interpreting Title VI to require "affirmative action" remedying effects of intentional discrimination); *Alexander* v. *Choate,* 469 U. S., at 299, 309 (regulations clarifying what sorts of disparate impacts upon the handicapped were covered by §504 of the Rehabilitation Act of 1973, which the Court assumed included some such impacts). Our decision in *Lau* v. *Nichols,* 414 U. S. 563 (1974), falls within the same category. The Title VI regulations at issue in *Lau*, similar to the ones at issue here, forbade funding recipients to take actions which had the effect of discriminating on the basis of race, color, or national origin. *Id.,* at 568. Unlike our later cases, however, the Court in *Lau* interpreted §601 itself to proscribe disparate-impact discrimination, saying that it "rel[ied] solely on §601 . . . to reverse the Court of Appeals," *id.,* at 566, and that the disparate-impact regulations simply "[made] sure that recipients of federal aid . . . conduct[ed] any federally financed projects consis-

tently with §601," *id.,* at 567.[5]

We must face now the question avoided by *Lau*, because we have since rejected *Lau*'s interpretation of §601 as reaching beyond intentional discrimination. See *supra,* at 4. It is clear now that the disparate-impact regulations do not simply apply §601– since they indeed forbid conduct that §601 permits– and therefore clear that the private right of action to enforce §601 does not include a private right to enforce these regulations. See *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.,* 511 U. S. 164, 173 (1994) (a "private plaintiff may not bring a [suit based on a regulation] against a defendant for acts not prohibited by the text of [the statute]"). That right must come, if at all, from the independent force of §602. As stated earlier, we assume for purposes of this decision that §602 confers the authority to promulgate disparate-impact regulations[6]; the question remains whether it

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[5] It is true, as the dissent points out, see *post,* at 3–4, that three Justices who concurred in the result in *Lau* relied on regulations promulgated under §602 to support their position, see *Lau* v. *Nichols,* 414 U. S. 563, 570–571 (1974) (Stewart, J., concurring in result). But the five Justices who made up the majority did not, and their holding is not made coextensive with the concurrence because their opinion does not expressly preclude (is "consistent with," see *post,* at 4) the concurrence's approach. The Court would be in an odd predicament if a concurring minority of the Justices could force the majority to address a point they found it unnecessary (and did not wish) to address, under compulsion of JUSTICE STEVENS' new principle that silence implies agreement.

[6] For this reason, the dissent's extended discussion of the scope of agencies' regulatory authority under §602, see *post,* at 13–15, is beside the point. We cannot help observing, however, how strange it is to say that disparate-impact regulations are "inspired by, at the service of, and inseparably intertwined with" §601, *post,* at 15, when §601 permits the very behavior that the regulations forbid. See *Guardians,* 463 U. S., at 613 (O'CONNOR, J., concurring in judgment) ("If, as five members of the Court concluded in *Bakke*, the purpose of Title VI is to proscribe *only* purposeful discrimination . . . , regulations that would proscribe conduct by the recipient having only a discriminatory *effect* . . . do not simply

confers a private right of action to enforce them. If not, we must conclude that a failure to comply with regulations promulgated under §602 that is not also a failure to comply with §601 is not actionable.

Implicit in our discussion thus far has been a particular understanding of the genesis of private causes of action. Like substantive federal law itself, private rights of action to enforce federal law must be created by Congress. *Touche Ross & Co.* v. *Redington,* 442 U. S. 560, 578 (1979) (remedies available are those "that Congress enacted into law"). The judicial task is to interpret the statute Congress has passed to determine whether it displays an intent to create not just a private right but also a private remedy. *Transamerica Mortgage Advisors, Inc.* v. *Lewis,* 444 U. S. 11, 15 (1979). Statutory intent on this latter point is determinative. See, *e.g., Virginia Bankshares, Inc.* v. *Sandberg,* 501 U. S. 1083, 1102 (1991); *Merrell Dow Pharmaceuticals Inc.* v. *Thompson,* 478 U. S. 804, 812, n. 9 (1986) (collecting cases). Without it, a cause of action does not exist and courts may not create one, no matter how desirable that might be as a policy matter, or how compatible with the statute. See, *e.g., Massachusetts Mut. Life Ins. Co.* v. *Russell,* 473 U. S. 134, 145, 148 (1985); *Transamerica Mortgage Advisors, Inc.* v. *Lewis, supra,* at 23; *Touche Ross & Co.* v. *Redington, supra,* at 575–576. "Raising up causes of action where a statute has not created them may be a proper function for common-law courts, but not for federal tribunals." *Lampf, Pleva, Lipkind, Prupis & Petigrow* v. *Gilbertson,* 501 U. S. 350, 365 (1991) (SCALIA, J., concurring in part and concurring in judgment).

Respondents would have us revert in this case to the understanding of private causes of action that held sway

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further 'the purpose of Title VI; they go well *beyond* that purpose").

40 years ago when Title VI was enacted. That understanding is captured by the Court's statement in *J. I. Case Co.* v. *Borak,* 377 U. S. 426, 433 (1964), that "it is the duty of the courts to be alert to provide such remedies as are necessary to make effective the congressional purpose" expressed by a statute. We abandoned that understanding in *Cort* v. *Ash,* 422 U. S. 66, 78 (1975)– which itself interpreted a statute enacted under the *ancien regime*– and have not returned to it since. Not even when interpreting the same Securities Exchange Act of 1934 that was at issue in *Borak* have we applied *Borak*'s method for discerning and defining causes of action. See *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A., supra,* at 188; *Musick, Peeler & Garrett* v. *Employers Ins. of Wausau,* 508 U. S. 286, 291–293 (1993); *Virginia Bankshares, Inc.* v. *Sandberg, supra,* at 1102–1103; *Touche Ross & Co.* v. *Redington, supra,* at 576–578. Having sworn off the habit of venturing beyond Congress's intent, we will not accept respondents' invitation to have one last drink.

Nor do we agree with the Government that our cases interpreting statutes enacted prior to *Cort* v. *Ash* have given "dispositive weight" to the "expectations" that the enacting Congress had formed "in light of the 'contemporary legal context.'" Brief for United States 14. Only three of our legion implied-right-of-action cases have found this sort of "contemporary legal context" relevant, and two of those involved Congress's enactment (or reenactment) of the verbatim statutory text that courts had previously interpreted to create a private right of action. See *Merrill Lynch, Pierce, Fenner & Smith, Inc.* v. *Curran,* 456 U. S. 353, 378–379 (1982); *Cannon* v. *University of Chicago,* 441 U. S., at 698–699. In the third case, this sort of "contemporary legal context" simply buttressed a conclusion independently supported by the text of the statute. See *Thompson* v. *Thompson,* 484 U. S. 174 (1988). We have never accorded dispositive weight to context shorn of

text. In determining whether statutes create private rights of action, as in interpreting statutes generally, see *Blatchford* v. *Native Village of Noatak,* 501 U. S. 775, 784 (1991), legal context matters only to the extent it clarifies text.

We therefore begin (and find that we can end) our search for Congress's intent with the text and structure of Title VI.[7] Section 602 authorizes federal agencies "to effectuate the provisions of [§601] . . . by issuing rules, regulations, or orders of general applicability." 42 U. S. C. §2000d–1. It is immediately clear that the "rights-creating" language so critical to the Court's analysis in *Cannon* of §601, see 441 U. S., at 690 n. 13, is completely absent from §602. Whereas §601 decrees that "[n]o person . . . shall . . . be subjected to discrimination," 42 U. S. C. §2000d, the text of §602 provides that "[e]ach Federal department and agency . . . is authorized and directed to effectuate the provisions of [§601]," 42 U. S. C. §2000d–1. Far from displaying congressional intent to create new rights, §602 limits agencies to "effectuat[ing]" rights already created by §601. And the focus of §602 is twice removed from the individuals who will ultimately benefit from Title VI's protection. Statutes that focus on the person regulated rather than the individuals protected create "no implication of an intent to confer rights on a particular class of persons." *California* v. *Sierra Club,* 451 U. S. 287, 294 (1981). Section 602 is yet a step further removed: it focuses

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[7] Although the dissent claims that we "adop[t] a methodology that blinds itself to important evidence of congressional intent," see *post,* at 21, our methodology is not novel, but well established in earlier decisions (including one authored by JUSTICE STEVENS, see *Northwest Airlines, Inc.* v. *Transport Workers,* 451 U. S. 77, 94, n. 31 (1981)), which explain that the interpretive inquiry begins with the text and structure of the statute, see *id.,* at 91, and ends once it has become clear that Congress did not provide a cause of action.

neither on the individuals protected nor even on the funding recipients being regulated, but on the agencies that will do the regulating. Like the statute found not to create a right of action in *Universities Research Assn., Inc.* v. *Coutu,* 450 U. S. 754 (1981), §602 is "phrased as a directive to federal agencies engaged in the distribution of public funds," *id.,* at 772. When this is true, "[t]here [is] far less reason to infer a private remedy in favor of individual persons," *Cannon* v. *University of Chicago, supra,* at 690–691. So far as we can tell, this authorizing portion of §602 reveals no congressional intent to create a private right of action.

Nor do the methods that §602 goes on to provide for enforcing its authorized regulations manifest an intent to create a private remedy; if anything, they suggest the opposite. Section 602 empowers agencies to enforce their regulations either by terminating funding to the "particular program, or part thereof," that has violated the regulation or "by any other means authorized by law," 42 U. S. C. §2000d–1. No enforcement action may be taken, however, "until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means." *Ibid.* And every agency enforcement action is subject to judicial review. §2000d–2. If an agency attempts to terminate program funding, still more restrictions apply. The agency head must "file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action." §2000d–1. And the termination of funding does not "become effective until thirty days have elapsed after the filing of such report." *Ibid.* Whatever these elaborate restrictions on agency enforcement may imply for the private enforcement of rights created *outside* of §602, compare *Cannon* v. *University of Chicago, supra,* at 706, n. 41, 712, n. 49;

Regents of Univ. of Cal. v. *Bakke,* 438 U. S., at 419, n. 26 (STEVENS, J., concurring in judgment in part and dissenting in part), with *Guardians Assn.* v. *Civil Serv. Comm'n of New York City,* 463 U. S., at 609–610 (Powell, J., concurring in judgment); *Regents of Univ. of Cal.* v. *Bakke, supra,* at 382–383 (opinion of White, J.), they tend to contradict a congressional intent to create privately enforceable rights through §602 itself. The express provision of one method of enforcing a substantive rule suggests that Congress intended to preclude others. See, *e.g., Karahalios* v. *Federal Employees,* 489 U. S. 527, 533 (1989); *Northwest Airlines, Inc.* v. *Transport Workers,* 451 U. S. 77, 93–94 (1981); *Transamerica Mortgage Advisors, Inc.* v. *Lewis,* 444 U. S., at 19–20. Sometimes the suggestion is so strong that it precludes a finding of congressional intent to create a private right of action, even though other aspects of the statute (such as language making the would-be plaintiff "a member of the class for whose benefit the statute was enacted") suggest the contrary. *Massachusetts Mut. Life Ins. Co.* v. *Russell,* 473 U. S., at 145; see *id.,* at 146–147. And as our Rev. Stat. §1979, 42 U. S. C. §1983 cases show, some remedial schemes foreclose a private cause of action to enforce even those statutes that admittedly create substantive private rights. See, *e.g., Middlesex County Sewerage Authority* v. *National Sea Clammers Assn.,* 453 U. S. 1, 19–20 (1981). In the present case, the claim of exclusivity for the express remedial scheme does not even have to overcome such obstacles. The question whether §602's remedial scheme can overbear other evidence of congressional intent is simply not presented, since we have found no evidence anywhere in the text to suggest that Congress intended to create a private right to enforce regulations promulgated under §602.

Both the Government and respondents argue that the *regulations* contain rights-creating language and so must

be privately enforceable, see Brief for United States 19–20; Brief for Respondents 31, but that argument skips an analytical step. Language in a regulation may invoke a private right of action that Congress through statutory text created, but it may not create a right that Congress has not. *Touche Ross & Co.* v. *Redington,* 442 U. S., at 577, n. 18 ("[T]he language of the statute and not the rules must control"). Thus, when a statute has provided a general authorization for private enforcement of regulations, it may perhaps be correct that the intent displayed in each regulation can determine whether or not it is privately enforceable. But it is most certainly incorrect to say that language in a regulation can conjure up a private cause of action that has not been authorized by Congress. Agencies may play the sorcerer's apprentice but not the sorcerer himself.

The last string to respondents' and the Government's bow is their argument that two amendments to Title VI "ratified" this Court's decisions finding an implied private right of action to enforce the disparate-impact regulations. See Rehabilitation Act Amendments of 1986, §1003, 42 U. S. C. §2000d–7; Civil Rights Restoration Act of 1987, §6, 102 Stat. 31, 42 U. S. C. §2000d–4a. One problem with this argument is that, as explained above, none of our decisions establishes (or even assumes) the private right of action at issue here, see *supra,* at 5–8, which is why in *Guardians* three Justices were able expressly to reserve the question. See 463 U. S., at 645, n. 18 (STEVENS, J., dissenting). Incorporating our cases in the amendments would thus not help respondents. Another problem is that the incorporation claim itself is flawed. Section 1003 of the Rehabilitation Act Amendments of 1986, on which only respondents rely, by its terms applies only to suits "for a violation of a *statute,*" 42 U. S. C. §2000d–7(a)(2) (emphasis added). It therefore does not speak to suits for violations of regulations that go beyond the statutory

proscription of §601. Section 6 of the Civil Rights Restoration Act of 1987 is even less on point. That provision amends Title VI to make the term "program or activity" cover larger portions of the institutions receiving federal financial aid than it had previously covered, see *Grove City College* v. *Bell,* 465 U. S. 555 (1984). It is impossible to understand what this has to do with implied causes of action– which is why we declared in *Franklin* v. *Gwinnett County Public Schools,* 503 U. S., at 73, that §6 did not "in any way alte[r] the existing rights of action and the corresponding remedies permissible under . . . Title VI." Respondents point to *Merrill Lynch, Pierce, Fenner & Smith, Inc.* v. *Curran,* 456 U. S., at 381–382, which inferred congressional intent to ratify lower court decisions regarding a particular statutory provision when Congress comprehensively revised the statutory scheme but did not amend that provision. But we recently criticized *Curran*'s reliance on congressional inaction, saying that "[a]s a general matter . . . [the] argumen[t] deserve[s] little weight in the interpretive process." *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.,* 511 U. S., at 187. And when, as here, Congress has not comprehensively revised a statutory scheme but has made only isolated amendments, we have spoken more bluntly: "It is 'impossible to assert with any degree of assurance that congressional failure to act represents' affirmative congressional approval of the Court's statutory interpretation." *Patterson* v. *McLean Credit Union,* 491 U. S. 164, 175, n. 1 (1989) (quoting *Johnson* v. *Transportation Agency, Santa Clara Cty.,* 480 U. S. 616, 671–672 (1987) (SCALIA, J., dissenting)).

Neither as originally enacted nor as later amended does Title VI display an intent to create a freestanding private right of action to enforce regulations promulgated under

§602.[8] We therefore hold that no such right of action exists. Since we reach this conclusion applying our standard test for discerning private causes of action, we do not address petitioners' additional argument that implied causes of action against States (and perhaps nonfederal state actors generally) are inconsistent with the clear statement rule of *Pennhurst State School and Hospital* v. *Halderman,* 451 U. S. 1 (1981). See *Davis* v. *Monroe County Bd. of Ed.,* 526 U. S. 629, 656–657, 684–685 (1999) (KENNEDY, J., dissenting).

The judgment of the Court of Appeals is reversed.

It is so ordered.

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[8] The dissent complains that we "offe[r] little affirmative support" for this conclusion. *Post,* at 24. But as JUSTICE STEVENS has previously recognized in an opinion for the Court, "affirmative" evidence of congressional intent must be provided *for* an implied remedy, not against it, for without such intent "the essential predicate for implication of a private remedy simply does not exist," *Northwest Airlines, Inc.,* 451 U. S., at 94. The dissent's assertion that "petitioners *have* marshaled substantial affirmative evidence that a private right of action exists to enforce Title VI *and the regulations validly promulgated thereunder*," *post,* at 24–25, n. 26 (second emphasis added), once again begs the question whether authorization of a private right of action to enforce a statute constitutes authorization of a private right of action to enforce regulations that go beyond what the statute itself requires.