



U.S. Supreme Court Broadens “Ministerial Exception” for Religious Employers

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In an [opinion](#) penned by Justice Alito, the U.S. Supreme Court expanded the ministerial exception, which shields religious employers from judicial interference with internal employment decisions under certain circumstances.

Ministerial Exception

The U.S. Supreme Court first recognized what is commonly known as the ministerial exception in an opinion issued in 2012. In *Hosanna-Tabor Evangelical Lutheran Church and School v. E.E.O.C.*, 565 U.S. 171 (2012), an elementary school teacher at a religious school filed a lawsuit in federal court, claiming she had been terminated due to her disability in violation of the Americans with Disabilities Act of 1990. The U.S. Supreme Court ultimately ruled that the First Amendment’s Religion Clauses precluded her employment discrimination lawsuit against her religious employer. The Court based its decision in part on its concern that government interference with an internal church decision would affect the faith and mission of the church. In reaching its decision, the Court placed considerable weight on the teacher’s title of “minister,” her religious training, and her overall job responsibilities – all of which were driven by the school’s religious mission.

Consolidated Cases

In the present case, the U.S. Supreme Court consolidated two cases brought by two elementary school teachers formerly employed by Catholic schools in the Los Angeles area. Agnes Morrissey-Berru was employed at Our Lady of Guadalupe School (OLG) and filed a discrimination claim against OLG after the school decided not to renew her employment contract. Ms. Morrissey-Berru argued that OLG declined to renew her contract so it could replace her with a younger teacher in violation of the Age Discrimination in

Employment Act. Kristen Biel was also a teacher whose contract was not renewed at a different Catholic school. She too filed a discrimination lawsuit claiming that her termination was due to her request for a leave of absence to receive breast cancer treatment.

In both instances, the federal district court found that the teacher was barred from bringing an employment discrimination lawsuit due to the ministerial exception for religious employers. The Ninth Circuit, however, reversed both decisions based primarily on its finding that neither of the teachers held the title of “minister” and both had limited religious academic background.

U.S. Supreme Court Decision

The U.S. Supreme Court sided with the schools after clarifying that in highlighting the teacher’s ministerial title and significant religious academic background in *Hosanna-Tabor*, it did not intend to convey that those factors “must be met or even that they are necessarily important in all other cases.” Instead, the Court insisted that “what matters, at bottom is what an employee does” and that “educating young people in their faith, inculcating its teachings, and training them to live their faith are responsibilities that lie at the very core of the mission of a private religious school.” The Court found that the teachers’ job responsibilities in this case fell within the ministerial exception as they both performed religious duties, including teaching religion classes, attending Mass with students, etc.

Notably, the Court rejected the implicit invitation to establish a clear cut standard or formula that would enable both religious employers and their employees to more easily determine when the ministerial exception applies and, therefore, bars a lawsuit disputing the legitimacy of the employment actions.

Note to Employers

In light of the Court’s refusal to provide a checklist of factors or clearer guidelines to determine whether a religious employee’s claim will be barred by the ministerial exception, it is important for employers to know that such a determination will require a case-

by-case analysis of that employee's job duties. The mere fact that the teacher holds a ministerial title or has an extensive religious academic background will not necessarily be dispositive.

For more information, please contact [Katie B. Wright](#), [Souhila EL Moussaoui](#), or any other attorney in Frost Brown Todd's [Labor and Employment Group](#).

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