

U.S. Supreme Court Broadens Application of Ministerial Exceptions in Employment Discrimination Lawsuits

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On July 8, 2020, the Supreme Court, in ***Our Lady of Guadalupe School v. Morrissey-Berru***, held that the First Amendment bars courts from considering employment discrimination claims brought by teachers against their faith-based employers where their job duties include teaching religion. The Court clarified the application of the ministerial exception delineated in ***Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC***.

Morrissey-Berru involved a pair of employment disputes brought by two terminated elementary school teachers against their church-affiliated employers. While the teachers' titles did not include the term "minister," their responsibilities included teaching and promoting faith to students. One teacher alleged that she was subject to unlawful age discrimination, and the other claimed that she was terminated after requesting a leave of absence to obtain treatment for breast cancer. The trial courts dismissed both lawsuits based on the ministerial exception enunciated in the Supreme Court's decision in *Hosanna-Tabor*, which barred ministers from bringing employment discrimination claims against churches and other religious institutions. On appeal, the Ninth Circuit Court of Appeals reversed, holding that the teachers' titles, functions, and backgrounds were insufficient for the application of the ministerial exception.

The Supreme Court, in a 7-2 decision, rejected the Ninth Circuit's checklist of the factors in *Hosanna-Tabor*, finding it inappropriately weighed the significance of certain facts and unduly limited the application of the ministerial exception. The Court found that the teachers, while not formerly designated "ministers," performed similar religious duties, including teaching religion and promoting faith to their students, as well as carrying out the church's mission. Accordingly, the Court held that the ministerial exception applied, and thus the courts had no authority to adjudicate the teachers' claims of discrimination.

What does this mean for employers? The Court's decision buttresses the broad protection afforded to religious institutions against employment discrimination claims. As the dissent suggested, this decision might be extended to non-teacher employees of religious institutions. However, not all employees of religious institutions will automatically fall within the ministerial exception. The determination will turn on specific facts concerning the employees' roles, functions, and responsibilities. For example, janitorial or technology employees whose job duties do not include teaching or promoting religion may not be covered by the exception.