

# ‘Ministerial Exception’ Bars Lay Teachers’ Job Discrimination Claims, U.S. Supreme Court Rules

By Dylan B. Carp

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The First Amendment Religion Clauses exempt religious employers from suit by school teachers for alleged employment discrimination, the U.S. Supreme Court has held.

The Court issued its decision on July 8, 2020, in two consolidated cases: *Our Lady of Guadalupe School v. Morrissey-Berru*, No. 19-267; and *St. James School v. Biel*, No. 19-348. (For background on the cases, see our article, [U.S. Supreme Court Hears Argument on Whether ‘Ministerial Exception’ Covers Lay School Teachers.](#))

## Ministerial Exception

Under the “ministerial exception,” which the Court announced in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012), religious institutions have a First Amendment right “to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” The First Amendment’s religion clauses provide, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” The Court ruled the First Amendment barred a court from considering an employment discrimination claim brought by an elementary school teacher against the religious school where she taught. (For more, see our article, [‘Ministerial Exception’ Bars Ministers’ Discrimination Claims, U.S. Supreme Court Rules.](#))

## Background

Kristen Biel, a teacher in a California Catholic school, sued under the Americans with Disabilities Act after she was diagnosed with breast cancer and the school did not renew her contract. Agnes Morrissey-Berru, a teacher in another California Catholic school with a similar employment agreement, sued for age discrimination after the school did not renew her contract.

Although the plaintiffs did not have formal training or titles, their duties included teaching Catholic doctrine and other subjects. In both actions, the district courts held the claims were barred under the ministerial exception.

The U.S. Court of Appeals for the Ninth Circuit reversed the lower court’s decision, holding the teachers were not covered by the exception because neither the teachers nor the schools considered them to be ministers, as reflected, in part, by their job titles.

## Supreme Court Decision

The Supreme Court reversed the Ninth Circuit decision, holding both suits were barred.

Writing for a seven-justice majority, Justice Samuel Alito said, “When a school with a religious mission entrusts a teacher with the responsibility of educating and forming students in the faith, judicial intervention into disputes between the school and the teacher threatens the school’s independence in a way that the First Amendment does not allow.”

Applying that standard, the Court held the ministerial exception applied to the plaintiffs because their duties involved instructing their students on their faith’s tenets. According to the opinion, the plaintiffs’ employment agreements and faculty handbooks expressly provided that the schools expected the plaintiffs to help the schools carry out their stated mission of educating and forming students in the Catholic faith. The schools evaluated their work to ensure they were fulfilling that responsibility. As elementary school teachers responsible for providing instruction in all subjects, including religion, they were the members of the school staff who were entrusted most directly with the responsibility of educating their students in the faith. The schools also expected the plaintiffs to guide their students, by

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word and deed, toward the goal of living their lives in accordance with the faith. They prayed with their students, attended Mass with their students, and prepared the children for participation in other religious activities. Although their titles did not include the term “minister,” both schools expressly saw them as playing a vital part in carrying out the church’s mission.

## Dissent

In her dissenting opinion, Justice Sonya Sotomayor, writing for herself and Justice Ruth Bader Ginsburg, would have held that the schools failed to establish the First Amendment barred the lawsuits.

In Justice Sotomayor’s view, the Court significantly expanded *Hosanna-Tabor*. She wrote, “So long as the employer determines that an employee’s ‘duties’ are ‘vital’ to ‘carrying out the mission of the church, then today’s laissez-faire analysis appears to allow that employer to make employment decisions because of a person’s skin color, age, disability, sex, or any other protected trait for reasons having nothing to do with religion.” Instead, Justice Sotomayor would have limited *Hosanna-Tabor* to employees with “leadership” roles in the religious organization.

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Any employee of a religious organization who plays a role in “educating and forming students in the faith” now falls outside the protection of employment discrimination laws. Whether there is any employee whose role in educating students on religious doctrine may be deemed too trivial to qualify for the constitutional exception will be determined in future cases. Also left for future litigation is whether the ministerial exception applies to employees who are deemed important to their religious employer, but do not play a role in educating or forming others in the faith.

Please contact a Jackson Lewis attorney with any questions about the Court’s decision.

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