Our Lady of Guadalupe School v. Morrissey-Berru, 591 U.S. ___ (2020)*

JUSTICE ALITO delivered the opinion of the Court.

These cases require us to decide whether the First Amendment permits courts to intervene in employment disputes involving teachers at religious schools who are entrusted with the responsibility of instructing their students in the faith. The First Amendment protects the right of religious institutions "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 116 (1952). Applying this principle, we held in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012), that the First Amendment barred a court from entertaining an employment discrimination claim brought by an elementary school teacher, Cheryl Perich, against the religious school where she taught. Our decision built on a line of lower court cases adopting what was dubbed the "ministerial exception" to laws governing the employment relationship between a religious institution and certain key employees. We did not announce "a rigid formula" for determining whether an employee falls within this exception, but we identified circumstances that we found relevant in that case, including Perich's title as a "Minister of Religion, Commissioned," her educational training, and her responsibility to teach religion and participate with students in religious activities. Id., at 190–191.

In the cases now before us, we consider employment discrimination claims brought by two elementary school teachers at Catholic schools whose teaching responsibilities are similar to Perich's. Although these teachers were not given the title of "minister" and have less religious training than Perich, we hold that their cases fall within the same rule that dictated our decision in *Hosanna-Tabor*. The religious education and formation of students is the very reason for the existence of most private religious schools, and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission. Judicial review of the way in which religious schools discharge those responsibilities would undermine the independence of religious institutions in a way that the First Amendment does not tolerate.

I

A-1

The first of the two cases we now decide involves Agnes Morrissey-Berru, who was employed at Our Lady of Guadalupe School (OLG), a Roman Catholic primary school in the Archdiocese of Los Angeles. [...] For many years, Morrissey-Berru was employed at OLG as a lay fifth or sixth grade teacher. Like most elementary school teachers, she taught all subjects, and since OLG is a Catholic school, the curriculum included religion[.] As a result, she was her students' religion teacher.

Morrissey-Berru [...] took religious education courses at the school's request, [...], and was expected to attend faculty prayer services[.]

Each year, Morrissey-Berru and OLG entered into an employment agreement[.] The agreement explained that the school's hiring and retention decisions would be guided by its Catholic mission,

*Note: This majority opinion has been edited from the original text by Dr. Travis Braidwood for classroom use. The full case text can be found here: < https://supreme.justia.com/cases/federal/us/591/19-267/ >.

and the agreement made clear that teachers were expected to "model and promote" Catholic "faith and morals." Id., at 155. Under the agreement, Morrissey-Berru was required to participate in "[s]chool liturgical activities, as requested," and the agreement specified that she could be terminated "for 'cause' " for failing to carry out these duties or for "conduct that brings discredit upon the School or the Roman Catholic Church." Id., at 155–157. The agreement required compliance with the faculty handbook, which sets out similar expectations. [...]

Like all teachers in the Archdiocese of Los Angeles, Morrissey-Berru was "considered a catechist," i.e., "a teacher of religio[n]." [...] Catechists are "responsible for the faith formation of the students in their charge each day." Id., at 56a. Morrissey-Berru provided religious instruction every day using a textbook designed for use in teaching religion to young Catholic students.[...]

Morrissey-Berru prepared her students for participation in the Mass and for communion and confession. Id., at 68a, 81a, 88a–89a. She also occasionally selected and prepared students to read at Mass. Id., at 83a, 89a. And she was expected to take her students to Mass once a week[.] Morrissey-Berru also prayed with her students.

The school reviewed Morrissey-Berru's performance under religious standards. The " 'Classroom Observation Report' " evaluated whether Catholic values were "infused through all subject areas" and whether there were religious signs and displays in the classroom. [...]

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In 2014, OLG asked Morrissey-Berru to move from a full-time to a part-time position, and the next year, the school declined to renew her contract. She filed a claim with the Equal Employment Opportunity Commission (EEOC), received a right-to-sue letter, App. 169, and then filed suit under the Age Discrimination in Employment Act of 1967, [...], claiming that the school had demoted her and had failed to renew her contract so that it could replace her with a younger teacher. App. 168–169. The school maintains that it based its decisions on classroom performance—specifically, Morrissey-Berru's difficulty in administering a new reading and writing program, which had been introduced by the school's new principal as part of an effort to maintain accreditation and improve the school's academic program. [...]

Invoking the "ministerial exception" that we recognized in *Hosanna-Tabor*, OLG successfully moved for summary judgment, but the Ninth Circuit reversed in a brief opinion. 769 Fed. Appx. 460, 461 (2019). The court acknowledged that Morrissey-Berru had "significant religious responsibilities" but reasoned that "an employee's duties alone are not dispositive under *Hosanna-Tabor*'s framework."[...] OLG filed a petition for certiorari, and we granted review.

B-1

[The court then summarized the second, consolidated case concerning the late Kristen Biel. This summary is omitted for space.]

II-A

The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Among other things, the Religion Clauses protect the right of churches and other religious institutions to decide matters " 'of faith and doctrine' " without government intrusion. *Hosanna-Tabor*, 565 U. S., at 186 (quoting *Kedroff*, 344 U. S., at 116). State interference in that sphere would obviously violate the free exercise of religion, and

any attempt by government to dictate or even to influence such matters would constitute one of the central attributes of an establishment of religion. The First Amendment outlaws such intrusion.

The independence of religious institutions in matters of "faith and doctrine" is closely linked to independence in what we have termed " 'matters of church government.' " 565 U. S., at 186. This does not mean that religious institutions enjoy a general immunity from secular laws, but it does protect their autonomy with respect to internal management decisions that are essential to the institution's central mission. And a component of this autonomy is the selection of the individuals who play certain key roles.

The "ministerial exception" was based on this insight. Under this rule, courts are bound to stay out of employment disputes involving those holding certain important positions with churches and other religious institutions.[1] [...] The ministerial exception was recognized to preserve a church's independent authority in such matters.

B

[In *Hosanna-Tabor,* the] constitutional foundation for our holding was the general principle of church autonomy to which we have already referred: independence in matters of faith and doctrine and in closely linked matters of internal government. [...]

Because Cheryl Perich, the teacher in *Hosanna-Tabor*, had a title that included the word "minister," we naturally concentrated on historical events involving clerical offices, but the abuses we identified were not limited to the control of appointments. [The court then details English common law and early U.S. examples]

C

In *Hosanna-Tabor*, Cheryl Perich, a kindergarten and fourth grade teacher at an Evangelical Lutheran school, filed suit in federal court, claiming that she had been discharged because of a disability, in violation of the Americans with Disabilities Act of 1990 (ADA), 42 U. S. C. §12112(a). The school responded that the real reason for her dismissal was her violation of the Lutheran doctrine that disputes should be resolved internally and not by going to outside authorities. We held that her suit was barred by the "ministerial exception" and noted that it "concern[ed] government interference with an internal church decision that affects the faith and mission of the church." 565 U. S., at 190. We declined "to adopt a rigid formula for deciding when an employee qualifies as a minister," and we added that it was "enough for us to conclude, in this our first case involving the ministerial exception, that the exception covers Perich, given all the circumstances of her employment." Id., at 190–191. We identified four relevant circumstances but did not highlight any as essential.

First, we noted that her church had given Perich the title of "minister, with a role distinct from that of most of its members." Id., at 191. Although she was not a minister in the usual sense of the term—she was not a pastor or deacon, did not lead a congregation, and did not regularly conduct religious services—she was classified as a "called" teacher, as opposed to a lay teacher, and after

[1]The rule appears to have acquired the label "ministerial exception" because the individuals involved in pioneering cases were described as "ministers." See *McClure v. Salvation Army*, 460 F.2d 553, 558–559 (CA5 1972); *Rayburn v. General Conference of Seventh-day Adventists*, 772 F.2d 1164, 1168 (CA4 1985). Not all pre-*Hosanna-Tabor* decisions applying the exception involved "ministers" or even members of the clergy. See, e.g., *EEOC v. Southwestern Baptist Theological Seminary*, 651 F.2d 277, 283–284 (CA5 1981); *EEOC v. Roman Catholic Diocese of Raleigh, N. C.*, 213 F.3d 795, 800–801 (CA4 2000).

completing certain academic requirements, was given the formal title " 'Minister of Religion, Commissioned.' " Id., at 177–178, 191.

Second, Perich's position "reflected a significant degree of religious training followed by a formal process of commissioning." Id., at 191.

Third, "Perich held herself out as a minister of the Church by accepting the formal call to religious service, according to its terms," and by claiming certain tax benefits. Id., at 191–192.

Fourth, "Perich's job duties reflected a role in conveying the Church's message and carrying out its mission." Id., at 192. The church charged her with " 'lead[ing] others toward Christian maturity' " and " 'teach[ing] faithfully the Word of God, the Sacred Scriptures, in its truth and purity and as set forth in all the symbolical books of the Evangelical Lutheran Church.' " Ibid. Although Perich also provided instruction in secular subjects, she taught religion four days a week, led her students in prayer three times a day, took her students to a chapel service once a week, and participated in the liturgy twice a year. [...]

The opinion concluded that the " 'ministerial' exception" "should apply to any 'employee' who leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith." Id., at 199.

D-1

In determining whether a particular position falls within the *Hosanna-Tabor* exception, a variety of factors may be important.[...]

Take the question of the title "minister." Simply giving an employee the title of "minister" is not enough to justify the exception. And by the same token, since many religious traditions do not use the title "minister," it cannot be a necessary requirement. [...] If titles were all-important, courts would have to decide which titles count and which do not, and it is hard to see how that could be done without looking behind the titles to what the positions actually entail. Moreover, attaching too much significance to titles would risk privileging religious traditions with formal organizational structures over those that are less formal. [...]

What matters, at bottom, is what an employee does. And implicit in our decision in *Hosanna-Tabor* was a recognition 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. [...]

2

When we apply this understanding of the Religion Clauses to the cases now before us, it is apparent that Morrissey-Berru and Biel qualify for the exemption we recognized in *Hosanna-Tabor*. There is abundant record evidence that they both performed vital religious duties. [...] Their titles did not include the term "minister," and they had less formal religious training, but their core responsibilities as teachers of religion were essentially the same. And both their schools expressly saw them as playing a vital part in carrying out the mission of the church, and the schools' definition and explanation of their roles is important. In a country with the religious diversity of the United States, judges cannot be expected to have a complete understanding and appreciation of the role played by every person who performs a particular role in every religious tradition. A religious institution's explanation of the role of such employees in the life of the religion in question is important.

III

In holding that Morrissey-Berru and Biel did not fall within the Hosanna-Tabor exception, the Ninth Circuit misunderstood our decision. [The court then explains how the 9th Circuit Court of Appeals incorrectly applied *Hosanna-Tabor*.]

* * *

For these reasons, the judgment of the Court of Appeals in each case is reversed, and the cases are remanded for proceedings consistent with this opinion.

It is so ordered.