

ALERTS AND UPDATES

U.S. Supreme Court Recognizes Ministerial Exception and Bars Employment Discrimination Claims by Employees Engaged in Ministerial Functions

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The U.S. Supreme Court ruled unanimously on January 11, 2012, that ministers and other employees of religious organizations who perform "ministerial" duties cannot sue their employers for employment discrimination. This [ruling](#) marks the first time the Supreme Court has acknowledged a "ministerial exception" to federal anti-discrimination laws. The exception had previously been recognized only by lower courts. In essence, the ministerial exception provides that the First Amendment's guarantee of religious freedom shields religious organizations from the reach of employment-related non-discrimination laws.

At issue in this case was whether a former parochial school teacher could bring a discrimination lawsuit under the Americans with Disabilities Act against her church employer. The teacher, Cheryl Perich, had argued that the ministerial exception did not pertain to her employment as a minister at the Hosanna-Tabor Evangelical Lutheran Church's religious school. She began employment at the church as a temporary "lay" (non-ordained) teacher and only later underwent religious training. Following this training, the church promoted her to a "called" (ordained) teacher and hired her as a minister. Perich taught both secular and religious classes at the church and estimated that she spent approximately only 45 minutes a day performing "religious" parts of her job. In 2004, she went on a disability leave and, after not returning for six months, was asked by the church to resign her position. When she refused to do so, the church removed her from her position, and she then filed a charge with the Equal Employment Opportunity Commission.

When the charge reached a federal district court, it was dismissed pursuant to the ministerial exception under the Americans with Disabilities Act. The Sixth Circuit Court of Appeals later reinstated the lawsuit on the basis that Perich's primary job function was teaching secular subjects, and thus finding the ministerial exception to be inapplicable. In reversing the Sixth Circuit, the Supreme Court noted that the Sixth Circuit placed too much emphasis on the fact that Perich's religious duties were limited in duration and scope. The Court stated: "The amount of time an employee spends on particular activities is relevant in assessing that employee's status [as a religious employee subject to the ministerial exception], but that factor cannot be considered in isolation, without regard to the nature of the religious functions performed."

While recognizing the significance of federal anti-discrimination laws, the Court stated that requiring a religious group to accept or retain unwanted ministers would violate the First Amendment's Free Exercise Clause, which "protects a religious group's right to shape its own faith and mission through its appointments," by interfering with "the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs." The Court reasoned that just as a religious organization was free to select its ministers without government intervention, it must be free to terminate those ministers without government intervention.

The Court noted further that the ministerial exception is not limited to those employees at the head of a religious organization's congregation. At the same time, the Court did not specify factors to distinguish between a secular employee and a religious employee, stating that it was not adopting "a rigid formula for deciding when an employee qualifies as a minister" in order to be barred from raising a discrimination claim. In resolving the present case, the Court found that Perich was a member of the church's leadership and that the amount of time she spent performing religious-oriented tasks was not dispositive of whether the ministerial exception was applicable. The Court placed weight on the additional facts that Perich had undergone religious training and held herself out as a minister of the church.

It is important to note that the Court clarified that its decision involving the ministerial exception was limited to discrimination-based lawsuits. The Court noted that it was not expressing any view on whether the ministerial exception would bar other types of lawsuits, such as breach of contract or personal-injury claims by employees.

For religious entity employers, this ruling is likely to come as a relief, knowing that the organization will be able to select (both in hiring and terminating) their chosen ministers. At the same time, while the Supreme Court stated that the ministerial exception exists, it provided little guidance on its scope. Many appellate courts have provided guidance, although the guidance is far from uniform.

As a result, religious organizations should evaluate their employees' various job positions to determine whether particular employees are likely to be viewed by courts as subject to the ministerial exception.

For Further Information

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