TOPIC:

FIRST AMENDMENT AND TEN COMMANDMENTS: THE MINISTERIAL EXCEPTION’S APPLICATION TO RELIGIOUS COLLEGES AND UNIVERSITIES

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INTRODUCTION:

The ministerial exception is a doctrine of constitutional law that provides religious employers, including certain colleges and universities, with a complete defense to many employment-related causes of action. The doctrine, rooted in the First Amendment’s Establishment and Free Exercise clauses, provides that the government cannot interfere with a religious organization’s selection of its “ministers.”

The ministerial exception is not limited merely to those who fulfill conventional religious roles. Indeed, at a religious college or university, professors of religion, instructors who teach religion and spread the faith, and even employees who assist in religious functions—including music directors and public relations managers—may qualify as “ministers” under the exception.

This Note will detail how courts have tested whether an employee is a “minister.” It will describe: (1) which institutions can invoke the ministerial exception, (2) which causes of action the exception can preclude, and (3) the sometimes complex question of which positions may be subject to the exception. Finally, it will focus on practical considerations, including the types of policies and practices that colleges and universities should consider when determining whether particular positions are subject to the exception.

DISCUSSION:

I. What is the Ministerial Exception?

The ministerial exception is an unusual doctrine in U.S. employment law that is not contained in any statute and is instead entirely the creation of federal and state judges. Courts have applied the doctrine for decades to exempt religious organizations from government restrictions that could intrude upon the organization’s ability to select its “ministers.” The exception is rooted in both the Free Exercise and Establishment clauses of the U.S. Constitution’s First Amendment, which provide that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”
The ministerial exception most frequently arises as a defense to employment-related claims brought against a religious employer for discrimination or retaliation, or for alleged violation of wage and hour laws. As discussed in more detail below, if an employee qualifies as a “minister”—taking into account the circumstances of his or her employment—the employer can invoke the ministerial exception as a complete defense to the lawsuit.[1]

A religious employer need not articulate a religious reason in order for its employment decision to rely upon the ministerial exception. In fact, courts have held that it is an intrusion upon a religious employer’s First Amendment rights for a court even to ask for such a reason.[2]

II. The United States Supreme Court’s 2012 Decision in EEOC v. Hosanna-Tabor Evangelical Lutheran Church

Although lower courts have long recognized the doctrine, it was not applied by the United States Supreme Court until the landmark 2012 case of EEOC v. Hosanna-Tabor Evangelical Lutheran Church, which addressed a disability lawsuit brought by a teacher employed by the church.[3] The opinion, authored by Chief Justice Roberts, first addressed the constitutional basis for the exception:

The members of a religious group put their faith in the hands of their ministers. Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs. By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group’s right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions.[4]

After recognizing the ministerial exception as valid, the Court next considered whether the exception applied to the teacher’s job position at a small school run by the Lutheran Church. In addition to math, language arts, social studies, science, gym, art, and music, the plaintiff taught a religion class four days per week, attended a chapel with her class once a week, and led her classes in prayer. In a unanimous decision, the Court held that the ministerial exception applied to the teacher and that her claim under the Americans with Disabilities Act was barred.[5]

In deciding Hosanna-Tabor, the Court explicitly declined to pronounce a general test for applying the ministerial exception: “We are reluctant . . . to adopt a rigid formula for deciding when an employee qualifies as a minister. It is enough for us to conclude, in this our first case involving the ministerial exception, that the exception covers [the plaintiff], given all the circumstances of her employment.”[6] However, the Court did identify a number of “considerations” or “circumstances” it found significant in determining that the teacher’s employment was subject to the exception:

- The school held her out as a minister, with a role distinct from that of most of its members;[7]
- Her title as a minister reflected a “significant degree of religious training” and her election to the position was by a vote of the church congregation;[8]
- She held herself out as a minister by accepting the formal “call” to religious service (an offer extended by the congregation after the teacher passes a course of religious instruction)[9] and by claiming a special housing allowance on her taxes that is available only to employees earning their compensation “in the exercise of the ministry” (known as parsonage);[10] and
- Her job duties involved “a role in conveying the Church’s message and carrying out its mission.”[11] As to this last consideration, the Court observed, among other things, that “[the teacher] taught her students religion four days a week, and led them in prayer three times a day,” in addition to other religious duties.[12] The Court made clear that the fact that the teacher had a substantial number of secular responsibilities at the school was not dispositive of whether the ministerial exception applied to her.[13]
Finally, the Court noted that a church’s rationale for an employment decision plays no part in whether it may invoke the ministerial exception: “The purpose of the exception is not to safeguard a church’s decision to fire a minister only when it is made for a religious reason. The exception instead ensures that the authority to select and control who will minister to the faithful—a matter ‘strictly ecclesiastical’—is the church’s alone.”[14]

III. Which Colleges and Universities Can Use the Ministerial Exception?

Courts have provided various formulations to determine which colleges and universities fall under the ministerial exception. For example, a Kentucky state court allowed a seminary to invoke the exception in an employment dispute with a tenured professor.[15] The court explained that a “religious institution” — defined as one where the “entity’s mission is marked by clear or obvious religious characteristics” — could use the exception.[16] The California Court of Appeal assumed the exception was available to “church-related institutions” that have a “substantial religious character” in determining that the exception could be invoked by a university affiliated with the Disciples of Christ.[17] In Hosanna-Tabor, the Supreme Court applied the exception to a church-run elementary school, referencing the exception as available to any “religious organization.”[18]

Religious colleges and universities have regularly been found entitled to use the ministerial exception. A private Catholic university invoked it to bar the discrimination lawsuit of a nun who challenged her denial of tenure in a canonical law department.[19] In another case, a private Catholic diocesan college was able to invoke the exception to bar the discrimination claims of a university chaplain.[20]

The tests to determine whether a college or university qualifies as a religious institution are very general, and case law on the issue is scarce. Most published cases do not have substantial reasoning. If much of an institution’s mission and activities relate to its religious character—and if that character is clear from student application materials, student recruiting, corporate documents, tax status, incorporating documents, or fundamental organizational materials—then the institution will likely be able to invoke the exception. If the college or university is owned or operated by a religious organization, or affiliated with a religious denomination, that will further strengthen its position.[21]

IV. Which Causes of Action Are Barred?

Another important aspect of the ministerial exception’s scope is determining the causes of action to which it applies. The following list illustrates the types of employment claims that courts have held are barred by the ministerial exception:

- Disability discrimination;[22]
- Race discrimination;[23]
- Sex discrimination and retaliation;[24]
- Age discrimination;[25]
- Wage and hour laws;[26]
- Defamation, privacy, and similar claims relating to employment decisions.[27]

Some courts have determined that certain causes of action are not covered by the ministerial exception. These carve-outs are rare and are limited to situations where the underlying circumstances do not relate to religious matters or employment decisions. After Hosanna-Tabor, it is unclear whether these exceptions continue to be viable.[28] Nonetheless, the following are causes of action to which the exception has been found not to apply in certain cases:

- Breach of contract;[29]
- Sexual harassment;[30] and
- Retaliatory harassment.[31]
V. The (Sometimes) Difficult Question – Which Positions Are Covered by the Ministerial Exception?

Courts have applied the ministerial exception to a great variety of job positions, both within and outside of religious colleges and universities. For the most part, courts do not adopt categorical notions of who is or is not a “minister” but instead focus on a variety of factors, including whether and how the responsibilities/functions of the position advance the religious mission of the institution. In the context of colleges and universities, courts have found the following positions were covered by the ministerial exception:

- An instructor who had sought tenure for a canon-law teaching position at a private Catholic university;[32]
- A chaplain at a private Catholic diocesan college;[33]
- A full-time chaplain and director of campus ministry at a university affiliated with the Disciples of Christ;[34]
- Faculty at a Baptist seminary, some of whom were not ordained ministers;[35] and
- A tenured professor of Christian social ethics at a theological seminary, who promoted students’ development in the ministry and engaged in religious functions within the seminary itself.[36]

Courts have also applied the ministerial exception to the following positions outside the context of colleges or universities, demonstrating how expansively courts have defined the concept of “minister”:

- A church music director whose primary duties included selection, teaching, and presentation of music as part of a Catholic worship service;[37]
- The director of religious formation for a Catholic diocese;[38]
- A chaplain at a religious hospital;[39]
- A seminarian, who had not yet been ordained but had entered the seminary to become a priest, who was assigned to church maintenance, and who assisted with mass;[40]
- “Administrators” of a Salvation Army rehabilitation center who led worship and had other religious functions but also spent significant time supervising Salvation Army thrift shops;[41]
- A mashgiach, or kosher supervisor, of a predominately Jewish nursing home;[42] and
- A choirmaster and director of music at a Methodist church.[43]

In contrast, and by way of example, courts have found that the following employees were not ministers:

- A facilities manager at a Jewish synagogue, whose duties included maintenance, custodial, and janitorial work, who had no religious training or title, and who had no decision-making authority on religious matters;[44]
- An administrative assistant at a global ministry whose job was mainly to provide administrative and clerical support;[45] and
- An organ player in a Catholic church who did not exercise any control over musical selections or need to have any specialized knowledge of the Catholic faith.[46]

VI. Proactive Considerations – How to Establish Certain College or University Employees as “Ministers”?

From a purely practical perspective, how does a religious college or university invoke the ministerial exception? In the litigation context, the answer is simple. If an employee sues the college or university under discrimination or other laws, the institution can assert the ministerial exception as a defense as long as (1) it can make a colorable claim that the employee in question qualifies as a “minister,” and (2) the assertion of such a claim genuinely comports with the institution’s view of itself and its mission.

Courts are likely to uphold the classification of college or university employees who are priests, imams, rabbis, or other recognized spiritual leaders as ministers under the exception as long as they are clearly functioning as such within the college or university in a way that is consistent with the institution’s
religious mission. Courts are also likely to uphold the classification of individuals as ministers if the institution determines that their employment is consistent with the “considerations” and “circumstances” specified in Hosanna-Tabor. Of course, some of the religious characteristics discussed in Hosanna-Tabor (e.g., the concept of a “call” within a Lutheran church) may not translate from one faith to another.

As with other legal doctrines governed solely by judicial precedent, use of the ministerial exception requires careful planning by institutions based on general articulations of doctrine and based on a review of relevant case law in the applicable jurisdiction. The following is a list of steps—derived from the Supreme Court’s decision in Hosanna-Tabor—that a religious college or university might consider taking to reduce, if not eliminate, the risk that a court will find an employee is not covered under the ministerial exception.

- **Religious functions:** As a threshold matter, the employee must have some role in conveying the religious message of the college or university and carrying out its religious mission. (For many courts, satisfying this particular criterion is enough for the exception to apply, if the employee’s role is essential to the institution.)

- **Job description:** The job description should describe how the employee furthers the purpose of the institution, both in general terms and through identification and emphasis of the specific ways in which the employee’s job has a religious character.

- **Title:** If practicable, the employee’s job title should reflect the position’s religious function. In Hosanna-Tabor, the teacher’s job title contained the term “minister.”[47]

- **Distinct role:** The college or university should be prepared to articulate why the employee’s duties are distinct from those of other employees, based on the religious character of the duties. A job description or other document can serve as support.

- **Holding out or announcing as minister:** The college or university can announce to the students, administration, and community how the employee serves the religious purpose of the institution.

- **Training:** The job description can require that applicants have undergone religious training to qualify for the position or specify the training that will be required once the employee starts work.

- **Prior experience:** The job description can require applicants to have prior experience serving the same religious purpose for prior employers or organizations.

- **Holding self out as minister:** The employee can be asked to acknowledge in writing that the job duties call for the employee to carry out the organization’s religious purpose. The document the employee is asked to sign may also contain a specific pledge by the employee to carry out that purpose.

- **Ordination:** Some type of formal ordination may help the employee qualify as a minister. (However, courts have made clear that ordination is not required for the exception to apply.[48])

- **Time spent on activities:** The college or university should be prepared to articulate how much time per week the employee spends on activities that have a religious character and can qualify the employee as a “minister.”[49]

Institutions may also wish to consider the following factors, derived from lower courts that have addressed whether an employee falls under the ministerial exception:

- **Membership in religious faith:** The college or university can require that persons occupying the position at issue personally be members of the faith. Courts have not uniformly stated that this is necessary for the exception to apply. Indeed, for some faiths, it might not be necessary that those who help communicate the faith actually belong to it, at least when performing some religious functions. For example, a preschool teacher who works in a daycare/nursery school at a religious college might not need to be a member of the faith on which the college’s mission is based if the teacher plays a vital role in inculcating religious values and identity in the small children in her care.[50] Some courts have, however, found it relevant—although not dispositive—whether a particular employee is a member of the faith.[51] Religious preference in hiring, of course, should be weighed against applicable anti-discrimination laws (which would become an issue if a court found that the employee was not a minister). However, federal prohibitions on religious discrimination—and many state laws—do allow religious employers to prefer members of the faith in making hiring decisions. Under Title VII, religious organizations
may limit employees “connected with the carrying on . . . of its activities” to members of its own faith.[52]

- **Religious ritual**: The employee’s supervision, leadership, or participation in religious ritual may help qualify the employee as a minister.

- **Spreading the faith**: If the employee’s job responsibilities involve attempts to persuade others to join the religion, this may help qualify the employee as a minister.

- **Close involvement in tenets of the faith**: To further confirm the exception applies, the job duties pertaining to religion should constitute actual participation in a religious practice and not just historical or factual discussion of the religion. A professor who not only teaches religion but leads services or prayer, or engages in other religious rituals with students and members of the community, will more likely be found a minister than a professor who only describes the religion to students.[53]

- **Written agreement/acknowledgment**: The institution may ask the employee to execute a written acknowledgment that states that the employee is a minister, for purposes of the exception; acknowledges the First Amendment rights of the institution with regard to the employment; and affirmatively acknowledges that this ministerial status will shape the employee’s job responsibilities at the college or university. Ideally, this document should be discussed and executed at the commencement of employment. The agreements may not be dispositive as a legal matter but will help the employer in its efforts to prove the exception. That said, requiring employees to sign such agreements can create morale and even public relations issues that might outweigh any legal benefits they provide.

- **Policies**: Colleges and universities should review their policies to ensure that religious standards or duties that apply to these employees are clearly articulated.

While courts will consider a number of factors, they typically will not require that each factor be met and will take into account the overall role of the employee. Nonetheless, it is prudent for colleges and universities to consider all of the above factors when analyzing whether a position is likely to qualify as covered under the ministerial exception.

### VII. Human Resources Considerations

This Note has described legal parameters for applying the exception. It is worth noting, however, that a religious college or university that decides to classify certain faculty and employees as “ministers” should consider a number of significant human resources-related considerations as well. For example, the college or university has to decide the extent to which, from a human resources perspective, ministerial employees will be treated differently from other employees. In addition, will the review procedures and leave and compensation rights of ministerial employees differ from those of non-ministerial employees who might otherwise have similar responsibilities? In turn, the college or university will have to consider the potential impact of this differential treatment on various aspects of the institution’s operations, ranging from morale and the institution’s ability to recruit candidates to faculty governance and even accreditation.

As an alternative, an institution might decide to reserve the ministerial exception only as a defense in litigation, should a conflict arise between the ministerial employee and the institution that could result in a protracted dispute. Even for this more limited and defensive use of the exception, an institution may well decide to communicate and agree with a ministerial employee at the outset of employment that the employee serves as a minister, so that all concerned understand the ramifications. Such early, proactive communication could even avoid the types of disputes that might otherwise arise and result in litigation.

**CONCLUSION:**

This Note has provided information on the conceptual groundwork for the ministerial exception, and outlined practical ways a college or university can help ensure that particular employees’ work is subject to the exception. Clearly, the ministerial exception—when used successfully—is a very useful defense that can help religious institutions resolve cases early in the process.
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ENDNOTES:

[1] See, e.g., Alcazar v. Corp. of Catholic Archbishop of Seattle, 627 F.3d 1288, 1293 (9th Cir. 2010) (holding that the ministerial exception barred state law wage and hour claims); Rwiyemamu v. Cote, 520 F.3d 198, 209 (2d Cir. 2008) (holding that the exception barred a Catholic priest’s claim against a church for race discrimination under Title VII of the Civil Rights Act of 1964); Combs v. Cent. Texas Annual Conference of United Methodist Church, 173 F.3d 343, 348-51 (5th Cir. 1999) (holding that the exception barred a lawsuit by a reverend for sex and pregnancy discrimination); McClure v. Salvation Army, 460 F.2d 553, 558, 560 (5th Cir. 1972) (holding that the exception barred claims for sex discrimination and for retaliation).


[3] 132 S. Ct. 694 (2012). In earlier cases, the Supreme Court had set the precedent that the First Amendment’s religion clauses precluded the government from regulating areas that interfered with the internal affairs of religious organizations. See, e.g., Serbian Eastern Orthodox Diocese for U. S. and Canada v. Milivojevich, 426 U.S. 696, 720 (1976) (concluding that the state court violated the First Amendment by ordering the reinstatement of a bishop who had defied the church); Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am., 344 U.S. 94, 119 (1952) (holding that a New York law that favored leadership in North America over the authority in Moscow interfered with the Russian Orthodox church’s hierarchy, thereby infringing on First Amendment).


[5] Id. at 707, 709-10.

[6] Id. at 707.

[7] Id.

[8] Id.

[9] Hosanna-Tabor Evangelical Lutheran Church and School operated a church and an elementary school with two types of faculty: (1) limited-term “lay” or “contract” teachers and (2) for-cause “called” teachers. Called teachers had to complete a course of religious study and received a certificate of admission into the teaching ministry. They received the title of “commissioned minister.” Id. at 699-700.

[10] Id. at 708.


[12] Id.

[13] Id. at 708-09. As a historical matter, a widely used test prior to the Supreme Court’s decision in Hosanna-Tabor was the “primary duties” test. Under that test, courts applied the ministerial exception to job positions “if the employee’s primary duties consist[ed] of teaching, spreading the faith, church governance, supervision of a religious order, or supervision or participation in religious ritual and worship.” Rayburn v. Gen. Conf. of Seventh-day Adventists, 772 F.2d 1164, 1169 (4th Cir. 1985) (emphasis added). Courts in some jurisdictions, however, declined to apply this test. One federal court of appeals, for example, suggested the test should turn on whether the employee was chosen for the position based “largely on religious criteria” and performed only some religious duties and responsibilities. See Starkman v. Evans, 198 F.3d 173, 176 (5th Cir. 1999). Although the Supreme Court in Hosanna-Tabor did not explicitly reject the “primary duties” test, the Court’s reasoning seems to invalidate it. Notably, the Court found that the lower court placed too much emphasis on the amount of time the plaintiff spent on her religious duties, stating the issue of who qualifies for the exception “is not one that can be resolved by a stopwatch.” Hosanna-Tabor, 132 S. Ct. at 709.


See Hosanna-Tabor, 132 S. Ct. at 705.


Case law regarding a particular statutory exemption to Title VII religious discrimination claims may also supply a potential test for the ministerial exception. See EEOC v. Kamehameha Sch., 990 F.2d 458, 461-64 (9th Cir. 1993) (examining such factors as ownership as well as affiliation, curriculum, activities, purpose, and characteristics of students and faculty).

See Starkman, 198 F.3d at 177 (holding that the exception precluded a choir director’s claim under the Americans with Disabilities Act).

See Young v. N. Illinois Conference of United Methodist Church, 21 F.3d 184, 186 (7th Cir. 1994) (holding that the exception precluded a claim of racial discrimination by the probationary minister of church).

See McClure, 460 F.2d at 558-60 (holding that the exception precluded a claim by a female minister that the Salvation Army discriminated against women in pay and other matters and had retaliated against the plaintiff because of an EEOC complaint); Scharon v. St. Luke’s Episcopal Presbyterian Hosp., 929 F.2d 360, 361, 363 (8th Cir. 1991) (concluding that the exception barred a gender discrimination suit).

See Tomic v. Catholic Diocese of Peoria, 442 F.3d 1036, 1037-39 (7th Cir. 2006) (holding that the exception barred a cause of action by a priest under federal age discrimination law), abrogated on other grounds, Hosanna-Tabor, 132 S. Ct. at 709 n.4.

See Alcazar, 627 F.3d at 1293 (holding that the exception precluded an overtime wage claim under Washington state law); Shaliehsabou v. Hebrew Home of Greater Wash., Inc., 363 F.3d 299, 309-11 (4th Cir. 2004) (applying general principles of exception in interpreting the scope of the Fair Labor Standards Act wage and hour law).

See Gunn v. Mariners Church, Inc., 167 Cal. App. 4th 206, 216 (2008) (holding that the exception applies to tort claims for defamation, intentional infliction of emotional distress, and invasion of privacy that arise from employer statements in the course of hiring, firing, or discipline). In addition, the ministerial exception likely also precludes claims based on the National Labor Relations Act (“NLRA”), the law that governs union representation of private sector employees and collective bargaining. In NLRA v. Catholic Bishop of Chicago, the Supreme Court held that the NLRA did not authorize the National Labor Relations Board (“NLRB”)—the agency responsible for administering the NLRA—to exercise jurisdiction over lay teachers employed by a church-operated school. 440 U.S. 490, 499 (1979). The Court noted that even if the NLRA did grant such jurisdiction, the Court would have to resolve whether the First Amendment religion clauses would bar its application. Id. at 499, 502. It is worth noting that the NLRB has formulated a new test pursuant to the Catholic Bishop case to determine when the NLRB will decline to exercise jurisdiction over a religious organization’s faculty in order to avoid First Amendment concerns regarding freedom of religion. See Pac. Lutheran Univ. & Serv. Employees Int’l Union, Local 925, 361 N.L.R.B. No. 157, 2014 WL 7330993, *1 (Dec. 16, 2014).

See Hosanna-Tabor, 132 S. Ct. at 709 (2012) ("The purpose of the exception is not to safeguard a church's decision to fire a minister only when it is made for a religious reason.").

See Bollard v. Cal. Province of Soc’y of Jesus, 196 F.3d 940, 945 (9th Cir. 1999).

See Elvig v. Calvin Presbyterian Church, 375 F.3d 951, 965 (9th Cir. 2004). The Elvig court’s reasoning provides a good example for why a court might not apply the exception to a specific cause of action. In Elvig, the Ninth Circuit decided that a claim of on-the-job harassment should not be barred by the exception unless it involves considerations of religious doctrine or an employment decision. Id. at 963, 966-67. The court reasoned that in these circumstances, the constitutional concerns of avoiding entanglement in ecclesiastical matters do not apply. Id. at 969. The issue is one of considerable debate, however. See, e.g., id. at 970-80 (Trott, J., dissenting) (reference a contrary position among other Ninth Circuit Judges on the point). The reasoning also appears inconsistent with the Supreme Court’s decision in Hosanna-Tabor that an employer does not need a religious reason to invoke the exception to a cause of action. See Hosanna-Tabor, 132 S. Ct. at 709.

EEOC v. Catholic Univ., 83 F.3d at 463-65.

Petkuska, 462 F.3d at 303-05.

Schmoll, 70 Cal. App. 4th at 144-45.


Kirby, 426 S.W.3d at 615-17.

EEOC v. Roman Catholic Diocese of Raleigh, N.C., 213 F.3d at 801-02.

Skrzypczak v. Roman Catholic Diocese of Tulsa, 611 F.3d 1238, 1244 (10th Cir. 2010).

Scharon, 929 F.2d at 362-63.

Alcazar, 627 F.3d at 1292-93.

Schleicher v. Salvation Army, 518 F.3d 472, 475-78 (7th Cir. 2008).

Shaliehsabou, 363 F.3d at 309-11.

Starkman, 198 F.3d at 175-77.
As described above, the Supreme Court in *Hosanna-Tabor* wrote that whether someone is a minister cannot be determined by a "stopwatch;" however, it is clear that the religious duties must be more than nominal or *de minimis*. 132 S. Ct. at 709.


See, e.g., *Kant v. Lexington Theological Seminary*, 426 S.W.3d 587, 595 (Ky., 2014) ("Of course, given the diversity of religious views, it is possible to imagine an employee and employer having divergent religious views and, yet, the employee performing important religious functions on behalf of the employer. . . . Nonetheless, an employee's personal belief system may be considered.").

This suggestion is derived from the discussion in *Kirby v. Lexington Theological Seminary*, in which the Kentucky Supreme Court set forth its interpretation of how the ministerial exception applies in the context of tenured faculty at a seminary. 426 S.W.3d at 613-14.