SUPREME COURT OF THE UNITED STATES

Nos. 19–267 and 19–348

OUR LADY OF GUADALUPE SCHOOL, PETITIONER
19–267 *v.*
AGNES MORRISSEY-BERRU

ST. JAMES SCHOOL, PETITIONER
19–348 *v.*
DARRYL BIEL, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF KRISTEN BIEL

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[July 8, 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. Excerpts of Record (ER) 58 in

would have held that the ministerial exception applied "because of the substance reflected in [Biel's] title and the important religious functions she performed" as a "stewar[d] of the Catholic faith to the children in her class." *Id.*, at 621, 622.

An unsuccessful petition for rehearing en banc ensued. Judge Ryan D. Nelson, joined by eight other judges, dissented. 926 F. 3d 1238, 1239 (2019). Judge Nelson faulted the panel majority for "embrac[ing] the narrowest construction" of the ministerial exception, departing from "the consensus of our sister circuits that the employee's ministerial function should be the key focus," and demanding nothing less than a "carbon copy" of the specific facts in *Hosanna-Tabor*. *Ibid.* We granted review and consolidated the case with OLG's. 589 U. S. ___ (2019).

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. 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). But it is instructive to consider why a church's independence on matters "of faith and doctrine" requires the authority to select, supervise, and if necessary, remove a minister without interference by secular authorities. Without that power, a wayward minister's preaching, teaching, and counseling could contradict the church's tenets and lead the congregation away from the faith.[9] The ministerial exception was recognized to preserve a church's independent authority in such matters.

B

When the so-called ministerial exception finally reached this Court in *Hosanna-Tabor*, we unanimously recognized

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[9] Cf. McConnell, Establishment and Disestablishment at the Founding, Part I: Establishment of Religion, 44 Wm. & Mary L. Rev. 2105, 2141 (2003) (politically appointed ministers in colonial Virginia were, in the view of the faithful, often "less than zealous in their spiritual responsibilities and less than irreproachable in their personal morals").

Seventh-day Adventists "trace the importance of education back to the Garden of Eden."[24] Seventh-day Adventist formation "restore[s] human beings into the image of God as revealed by the life of Jesus Christ" and focuses on the development of "knowledge, skills, and understandings to serve God and humanity."[25]

This brief survey does not do justice to the rich diversity of religious education in this country, but it shows the close connection that religious institutions draw between their central purpose and educating the young in the faith.

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. Educating and forming students in the Catholic faith lay at the core of the mission of the schools where they taught, and their employment agreements and faculty handbooks specified in no uncertain terms that they were expected to help the schools carry out this mission and that their work would be evaluated to ensure that 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. And not only were they obligated to provide instruction about the Catholic faith, but they were also expected to guide their students, by word and deed, toward the goal of living their lives in accordance with the faith. They prayed with their students, attended

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[24] Brief for General Conference of Seventh-day Adventists et al. as *Amici Curiae* 9.

[25] Seventh-day Adventist Church, About Us, https://adventisteducation.org/abt.html.

Mass with the students, and prepared the children for their participation in other religious activities. Their positions did not have all the attributes of Perich's. 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. Both panels treated the circumstances that we found relevant in that case as checklist items to be assessed and weighed against each other in every case, and the dissent does much the same. That approach is contrary to our admonition that we were not imposing any "rigid formula." 565 U. S., at 190. Instead, we called on courts to take all relevant circumstances into account and to determine whether each particular position implicated the fundamental purpose of the exception.[26]

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[26]The dissent charges that we transform the holding in *Hosanna-Tabor*, but that is what the dissent does. *Post,* at 8. According to the dissent: "*Hosanna-Tabor* charted a way to separate leaders who 'personify' a church's 'beliefs' [and] 'minister to the faithful' from individuals who may simply relay religious tenets." *Post,* at 7 (quoting 565 U. S., at 188, 195).

The dissent cobbles together this new test by taking phrases out of context from separate passages and inserting a proposition never suggested in *Hosanna-Tabor*, namely, that an individual cannot qualify for