

How More Than 40 Appellate Courts Have Interpreted the Ministerial Exception

A 1972 appellate decision from the United States Court of Appeals for the Fifth Circuit helped formally establish the ministerial exception as a judicial doctrine. Since then, the appellate courts and the US Supreme Court have issued 40 decisions addressing the ministerial exception when an employee claims a religious organization violated an employment statute. All but two of these courts ruled in favor of the religious employer when applying the ministerial exception, and in one of those cases, the exception “likely applied.”

Please note that, prior to 2012, different appellate courts used different tests to apply the ministerial exception. The Sixth Circuit used the primary duties test. That is, the worker must primarily perform ministerial duties to qualify for the ministerial exception. The Seventh Circuit applied the ecclesiastical exception doctrine to analyze ministerial exception cases.

The US Supreme Court, in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, overruled all tests except the test

used by the remainder of the appellate courts—the totality of the circumstances test. In *Our Lady of Guadalupe School v. Morrissey-Berru*, the Supreme Court again affirmed that the courts must use the totality of the circumstances test and demonstrated how it should be applied in two cases involving teachers without ministerial credentials.

Among the federal appellate courts of the 12 regional districts, including the DC Circuit, only the First Circuit has failed to

address the ministerial exception through an appellate decision.

See the geographic boundaries for the regional circuits [through this map](#) provided by the United States Courts. Appellate decisions made in a federal circuit are considered binding precedent for federal cases brought in states within that circuit (unless or until later overruled by either that same circuit or the Supreme Court), and considered persuasive in other federal circuits.

CASE	Title, Position	Basis of plaintiff's claim - "Yes" means ministerial exception applies							
		Title VII of the Civil Rights Act of 1964	Americans with Disabilities Act	Age Discrimination in Employment Act	Fair Labor Standards Act	Pregnancy	Equal Pay	State Law	Non-statutory Causes of Action
<i>Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC</i> (US Supreme Court, 2012)	Teacher		Yes						
<i>Our Lady of Guadalupe School v. Morrissey-Berru</i> (US Supreme Court, 2020)	Teacher		Yes	Yes					
<i>Palmer v. Liberty University, Inc.</i> (4th Cir. 2023)	Art Professor			Maybe, but the court disposed of the case on the merits					
<i>Fitzgerald v. Roncalli High School, Inc.</i> (7th Cir. 2023)	Guidance Counselor	Yes							
<i>Belya v. Kapral</i> (2nd Cir. 2022 and 2023)	Bishop								No, it does not apply to defamation

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<i>Starkey v. Roman Catholic Archdiocese of Indianapolis, Inc.</i> (7th Cir. 2022)	Guidance Counselor	Yes							
<i>Orr v. Christian Brothers High School, Inc.</i> (9th Circuit, 2022)	Teacher	Yes						Yes	
<i>Middleton v. United Church of Christ Board</i> (6th Circuit, 2021)	Youth Minister	Yes							
<i>Demkovich v. St. Andrew the Apostle Par.</i> (7th Circuit, 2021)	Music Director	Yes		Yes				Yes	
<i>Sterlinski v. Catholic Bishop of Chi.</i> (7th Circuit, 2019)	Organist	Yes							
<i>Grussgott v. Milwaukee Jewish Day Sch., Inc.</i> (7th Circuit, 2018)	Teacher		Yes						
<i>Lee v. Sixth Mt. Zion Baptist Church of Pittsburgh</i> (3rd Circuit, 2018)	Pastor								Breach of contract covered
<i>Penn v. N.Y. Methodist Hosp.</i> (2nd Circuit, 2018)	Chaplain	Yes							
<i>Fratello v. Archdiocese of N.Y.</i> (2nd Circuit, 2017)	School Principal	Yes						Yes	
<i>Conlon v. Intervarsity Christian Fellowship/USA</i> (6th Circuit, 2015)	Spiritual Director	Yes						Yes	
<i>Woods v. Cent. Fellowship Christian Acad.</i> (11th Circuit, 2013)	Teacher	Yes							

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<i>Cannata v. Catholic Diocese of Austin</i> (5th Circuit, 2012)	Music Director	Yes							
<i>Hamilton v. Southern Christian Sch., Inc.</i> (11th Circuit, 2012)	Teacher					Likely			School failed to plead
<i>Alcazar v. Corp. of the Catholic Archbishop of Seattle</i> (9th Circuit, 2010)	Seminarian				Yes			Yes	
<i>McCants v. Alabama-West Fla. Conf. of the United Methodist Church, Inc.</i> (11th Circuit, 2010)	Pastor	Yes							Claim brought under Section 1981 of the Civil Rights Act of 1866 barred
<i>McNeil vs. Mo. Annual Conf. of the United Methodist Church</i> (8th Circuit, 2010)	Pastor		Yes						
<i>Skrzypczak v. Roman Catholic Diocese</i> (10th Circuit, 2010)	Director of Spiritual Development	Yes					Yes	Yes	Sexual harassment stands
<i>Friedlander v. Port Jewish Ctr.</i> (2nd Circuit, 2008)	Rabbi								Breach of contract covered
<i>Rweyemamu v. Cote</i> (2nd Circuit, 2008)	Priest	Yes						Yes	
<i>Schleicher v. Salvation Army</i> (7th Circuit, 2008)	Minister				Yes				
<i>Hollins v. Methodist Healthcare Inc</i> (6th Circuit, 2007)	Pastoral Educator		Yes						
<i>Hankins v. Lyght</i> (2nd Circuit, 2006)	Pastor			Yes					

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<i>Petruska v. Gannon University</i> (3rd Circuit, 2006)	Chaplain	Yes							
<i>Tomic v. Catholic Diocese of Peoria</i> (7th Circuit, 2006)	Music Director/ Organist		Yes						
<i>Cooper-Igwebuike v. United Methodist Church</i> (8th Circuit, 2005)	Minister	Yes							
<i>Elvig v. Calvin Presbyterian Church</i> (9th Circuit, 2004)	Minister	Yes							Sexual harassment stands
<i>Shaliehsabou v. Hebrew Home of Greater Wash., Inc.</i> (4th Circuit, 2004)	Mashgiach (oversees dietary laws)				Yes				
<i>Werft v. Desert Southwest Annual Conf.</i> (9th Circuit, 2004)	Pastor		Yes						
<i>Alicea-Hernandez v. Catholic Bishop of Chicago</i> (7th Circuit, 2003)	Communica- tions Director	Yes							
<i>Bryce v. Episcopal Church in the Diocese of Colo.</i> (10th Circuit, 2002)	Youth Minister	Yes							Sexual harassment barred
<i>EEOC v. Roman Catholic Diocese</i> (4th Circuit, 2000)	Music Director	Yes						Yes	
<i>Gellington v. Christian Methodist Episcopal Church</i> (11th Circuit, 2000)	Pastor	Yes							

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<i>Bollard v. California Province of the Soc'y of Jesus</i> (9th Circuit, 1999)	Novice Priest	No							Sexual harassment stands
<i>Combs v. Central Tex. Annual Conf. of the United Methodist Church</i> (5th Circuit, 1999)	Associate Minister	Yes				Yes			
<i>Starkman v. Evans</i> (5th Circuit, 1999)	Choir Director		Yes					Yes	
<i>EEOC v. Catholic Univ. of Am.</i> (DC Circuit, 1996)	Nun	Yes							
<i>Young v. The Northern Ill. Conference of United Methodist Church</i> (7th Circuit, 1994)	Minister	Yes							
<i>Rayburn v. Gen. Conf. of Seventh-Day Adventists</i> (2nd Circuit, 1985)	Pastor	Yes							

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