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*“The first and almost the only book deserving of universal attention is the Bible.
I speak as a man of the world . . . and I say to you, ‘Search the Scriptures.’”
~ John Quincy Adams*

Court Protects Religious Schools’ Right to Hire

A federal judge for the southern district of Indiana has [ruled](#) in favor of the right of religious schools to hire personnel according to their religious beliefs. The case, [Starkey v. Roncalli High School and Archdiocese of Indianapolis](#), began when the school declined to renew the contract of co-director of guidance Lynn Starkey when she revealed she was in a same-sex marriage. She subsequently sued the school, “alleging discrimination, retaliation, and hostile work environment under Title VII.” The school argued that the First Amendment allowed it to select personnel who were engaged as ministers of the faith in passing along faith teachings to the next generation. In her position, Ms. Starkey was daily engaged in the religious mission of the school, leading in prayers, joining the congregation in singing, and guiding students in spiritual development through counseling in the Catholic faith. The court agreed with the school, upholding its religious liberty protections against the claims of sexual orientation discrimination. When Ms. Starkey argued that her role at the school was primarily secular, Judge Richard Young wrote that “it would be inappropriate for this court to draw a distinction between secular and religious guidance offered by a guidance counselor at a Catholic school.” Judge Young further wrote that “the decision to not renew Starkey’s employment contract goes to the heart of the church’s right to ‘select and control who will minister to the faithful.’”

The school’s argument and defense relied on the ministerial exception and the Religious Freedom Restoration Act (RFRA). The [ministerial exception](#) was first recognized in a 1972 decision issued by the Fifth Circuit Court of Appeals as a religious exemption to Title VII of the Civil Rights Act (which prohibits employment discrimination). The ministerial exception was subsequently recognized by several state supreme courts and every federal court of appeals in various cases. In 2012, the Supreme Court confirmed the ministerial exception by a unanimous decision in the case *Hosanna-Tabor v. Equal Employment Opportunity Commission (EEOC)*, ruling that under the ministerial exception, the government could not interfere in the decision of Hosanna-Tabor Evangelical Lutheran Church and School to terminate the employment of a church minister who taught in the school. Justice Thomas asserted that determining whether a teacher can be considered a minister is “an inherently theological question, and thus one that cannot be resolved by civil courts through legal analysis.” In 2020, the Supreme Court once again referenced the ministerial exception in the case *Our Lady of Guadalupe School v. Morrissey-Berru*, [ruling](#) that the government cannot interfere with a religious school’s employment decisions for teachers. Both of these Supreme Court decisions were cited as precedent by Judge Young in his ruling for *Starkey v. Roncalli* which explained that the ministerial exception “bars all of Starkey’s claims” of discrimination.

NAEP Results for K–12 Schools in America

Last week, the National Assessment for Educational Progress (NAEP) released results from its [2019 science assessment](#) and its [2021 monthly survey](#). NAEP reports reveal trends in both public and private schools that

help gauge the aptitude of fourth-, eighth-, and twelfth-grade students in key subjects. Across both public and private school students, NAEP found that higher performing students generally showed improved scores, while lowest performing students declined more sharply than any other group. Fourth grade had a lower average score in 2019 than 2015, with 27% of students scoring below NAEP basic, the lowest achievement level. Eighth grade scored similarly to 2015, with 33% of students scoring below NAEP basic. Twelfth grade again scored similarly to 2015, but with a larger percentage, 41%, scoring below NAEP basic. While NAEP collects data from all private schools, Catholic schools were the only group that met the 70% reporting threshold to be reported separately. Overall, Catholic school students scored high, with fewer students on average scoring below NAEP basic (13%), and more scoring NAEP proficient (46%) than their public-school peers (34%). NAEP also presented its 2021 monthly survey on instruction during COVID-19, showing that from February to May 2021, approximately 90-93% of private schools held in-person instruction for fourth-grade students, compared to just 50-62% of public schools. Schools provided slightly less in-person instruction for eighth graders, with 86-90% of private schools and 46-64% of public schools open to students during this time.

Conservative Leaders Urge Supreme Court to Overturn *Roe v. Wade*

The U.S. Supreme Court has agreed to hear arguments on a [case](#) which could potentially overturn the infamous *Roe v Wade* decision. The case, *Dobbs v. Jackson Women’s Health Organization*, will bring up the issue of whether states have the freedom to decide their own laws regarding the protection of life. At issue is a Mississippi law, passed in 2018, which prohibits abortions after fifteen weeks of pregnancy. The *Roe v. Wade* decision essentially ruled that a woman had a constitutional right to an abortion, which then overruled many existing state and federal restrictions on abortion. Recognizing the significance of the case to the pro-life cause, several conservative leaders have submitted amicus briefs, urging the High Court to recognize states’ power to protect the lives of the unborn against abortion in their states. Mississippi Attorney General Lynn Fitch submitted an [amicus brief](#) in which she explicitly states what is at stake in the case: “*Roe* and *Casey* are egregiously wrong. The conclusion that abortion is a constitutional right has no basis in text, structure, history, or tradition.” Additionally, 228 Members of Congress (44 Senators and 184 Representatives from 40 states) weighed in through an [amicus brief](#) which urges the Supreme Court to reconsider and overrule previous precedents which prevent states from regulating abortion and thereby protect women’s health, the lives of unborn babies, and “the public from barbaric medical procedures.” The Supreme Court will hear oral arguments this fall and issue a decision by June 2022.

In Case You Missed It:

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

[Promise to America’s Children](#)

[Further Evidence That Common Core Did Real Harm to U.S. Education](#)