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Assembly California Legislature



PHILIP Y. TING
ASSEMBLYMEMBER, NINETEENTH DISTRICT

February 23, 2015

Assemblymember Roger Hernández
Chair, Assembly Labor and Employment Committee
1020 N Street, Room 155
Sacramento, CA 95814

Assemblymember Mark Stone
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

Dear Assemblymembers Hernández and Stone:

We write to request that your committees investigate new employment conditions at four archdiocesan-administered Catholic high schools in the San Francisco Bay Area, which set a dangerous precedent for workers' rights through manipulations of law that deprive employees of civil rights guaranteed to all Californians.

On February 4, Archbishop Salvatore Cordileone released new and expansive morality clauses for all employed at Sacred Heart Cathedral Preparatory and Archbishop Riordan in San Francisco, Junipero Serra in San Mateo, and Marin Catholic in Kentfield. Starting August 1, "administrators, faculty and staff of any faith or of no faith" are "expected to arrange and conduct their lives so as to not visibly contradict, undermine or deny" a rejection of freedoms guaranteed by our laws. Among these freedoms are the right to choose who to love and marry, how to plan a family, and what causes or beliefs to support through freedom of speech and association. Codified in the 2015-2016 faculty handbook, these standards go beyond regulating behavior in the workplace by infringing on the personal and private lives of employees.

The Archbishop has powers over workers at schools affiliated with the Catholic Church. In tandem with the release of these morality clauses, he seeks the reclassification of all faculty as "ministers" through a new contract now pending with the San Francisco Archdiocesan Federation of Teachers, Local 2240. When combined with the morality clauses, the reclassification exploits a narrow exception for "ministers" in federal anti-discrimination law so that it becomes a tool for discrimination that would be illegal for any secular employer. In essence, the Archdiocese could fire any teacher who violates the morality clauses and eliminate recourse available to any other Californian worker. While the ministerial provision is subject to an ongoing collective bargaining process, the notion that teachers must surrender their rights for a job undermines the nobility of their profession and the progress that has defined decades of employment law.



The United States Supreme Court recognized the ministerial exemption, in 2012, in Hosanna-Tabor v. Equal Employment Opportunity Commission. The case was brought by a teacher who provided instruction in secular subjects and religion. She was fired from a Lutheran school for filing a disability discrimination claim, which school officials said violated religious doctrine. This premise makes the Archbishop's blanket application of the ministerial provision to all faculty, regardless of job duties, extremely alarming because it functions contrary to the purpose of the exemption itself – to protect the free exercise of religion under the First Amendment.

California cannot become a laboratory for discrimination under the guise of religion. By conducting a review of these issues, your committees can determine any recourse available for the workers or the State Legislature to preserve the rights of Californians employed at these schools. We must stand up for injustice, no matter the source. We must investigate instances where religion is used as a Trojan horse to deprive our fellow citizens of their basic civil rights. We are, above all, a nation of laws and are all equal under the law. Any exception to this principle can only rip the fabric of our society.

Thank you for your consideration of our views.

Sincerely,



PHIL TING
Assemblymember, 19th District



KEVIN MULLIN
Assemblymember, 22nd District

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