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[Guest Voices](#)



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by Kent Hickey

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It is that time of year again for Catholic school teachers to sign their ministerial covenants. These agreements have replaced contracts at religious schools throughout the country in the aftermath of the Supreme Court's [\*Hosanna-Tabor\*](#) decision 12 years ago. That ruling, a 9-0 decision, granted religious schools constitutional protections against discrimination lawsuits by employees who serve a religious function in the school. A later ruling construed "religious function" to include most faculty and staff in faith-based schools.

Ministerial covenants are a kind of get-out-of-lawsuits-free card for Catholic schools — and they are certainly here to stay.

They are beloved by diocesan attorneys and insurers, especially when they include a termination clause that allows Catholic schools to fire employees for "conduct or lifestyles deemed contrary to church teachings."

While highly prized from a legal and financial perspective, use of the "conduct or lifestyle" termination clause is troubling when viewed from the Catholic mission and identity lens.

A "conduct or lifestyle contrary to Catholic teaching" termination clause is so broad and open-ended that it provides little guidance to Catholic school educators regarding expectations and, at the same time, grants schools complete discretion in employment decisions.

What conduct is prohibited? What lifestyles violate church teaching? What church teachings are being relied upon to make the determination? It is not fair to require Catholic school educators to follow certain rules when they do not know what those rules are.

Educators do have a general sense that "conduct or lifestyle" clauses relate to sexuality and intimate relationships, but the lack of specificity for such a broad expanse of human activities creates both confusion and conflict.

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In one diocese, for example, a teacher who enters a civil same-sex marriage may be fired for violating the ministerial covenant, but an unmarried heterosexual teacher who is cohabitating is not. A pregnant unmarried teacher is fired in a diocese but would have been retained if she worked in another just a few miles away. I know of a diocese where, as was explained to me by an official, a teacher would be fired for being divorced and remarried without annulment.

Could a teacher be fired after being observed purchasing condoms at Walgreens? How about a staff member who is overheard in the break room talking about her birth control pills? Calling in sick after a vasectomy?

The solution is clear: If a bishop decides that Catholic school teachers should be fired for certain conduct or lifestyles that run contrary to his interpretation of Catholic teaching, then that bishop should unambiguously state what the offending conduct or lifestyles are in the ministerial covenant. Doing so would be both fair and reasonable; teachers should be made aware, for example, that they will be fired for getting remarried after a divorce.

Transparency and clarity are required at our Catholic schools, signs of mutual respect and partnership in mission.

Another problem with ministerial covenants is that they were born more from legal origins (the *Hosanna-Tabor* ruling) than from discernment, and this is especially true of those covenants that include broad "conduct or lifestyle" termination clauses.

The legal perspective is not the only perspective, and only through discernment can multiple considerations be brought to prayerful reflection.

Certainly, one essential such consideration should be eliciting the "sense of the faithful." A bishop who listens to the expectations of the community before codifying those expectations in a ministerial covenant is modeling to the faithful the importance of discernment in the Christian life.



Eastside Catholic High School students display signs during a rally in support of the school's former vice principal, Mark Zmuda, outside the Seattle Archdiocese chancery building Dec. 20, 2013. Students rallied in Seattle after the Catholic high school asked Zmuda to resign because he married his same-sex partner. (CNS/Reuters/David Ryder)

A few years ago, the [Seattle Archdiocese](#) did just that when the community was rocked by a civil same-sex marriage controversy. Thankfully, in the wake of this conflict, Seattle's archbishop, Paul Etienne, displayed the wisdom and pastoral care required to step back and ask for a sense of the faithful regarding expectations for Catholic school teachers. This process included an invitation to share viewpoints through a survey.

The invitation was well-received — [nearly 5,000](#) took the survey. The participants — priests, principals, teachers/staff, parents of current students, former students, parents of former students, and parishioners — formed a knowledgeable cohort when it came to the ministerial covenant and its potential impact on Catholic school

employees: Eighty percent indicated that they were either aware (20%) or very aware (60%) of the clause that "teachers can be terminated if 'lifestyle' or 'conduct' is at variance with Church teachings."

The participants were split, however, when asked how the clause should be enforced. Forty percent agreed that teachers should be terminated when lifestyle or conduct is at variance with church teachings while 60% disagreed with termination in those circumstances.

This latter group included a majority of the priests who participated in the survey: Fifty-eight percent either strongly disagreed (36%) or disagreed (22%) that teachers should be terminated when lifestyle or conduct varied from church teachings.

Survey participants were also given a list of actions and asked which ones should be grounds for termination due to violation of the ministerial covenant.

Not surprisingly, most of the respondents (above 60%) agreed that actions that harmed students such as providing alcohol to a minor, bullying/ridiculing students, striking a child, or expressing a racist attitude were violations that warranted termination.

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The same was not true, however, for examples from the list that were less about conduct and more about lifestyle. A minority of respondents (below 15%) viewed the following lifestyle decisions as violations worthy of employment termination: marrying a same-sex partner; cohabiting outside marriage; divorce and remarriage without annulment; marrying outside the church.

The responses clearly indicated that there was general agreement that Catholic school employees should be terminated for conduct that harms students. And the responses were equally clear that Catholic school teachers should not be fired simply because of their lifestyles.

The faithful, therefore, were more concerned about how well teachers lived their faith at work than their private sexuality and relationships at home.

These thoughts may or may not be replicated in other dioceses. The point is that the faithful do have something important to say about covenantal expectations for Catholic school educators and this voice should be heard when bishops determine what should be included in ministerial covenants.

If, after listening to the faithful as part of his discernment, a bishop decides that certain conduct or lifestyles should be grounds for termination, then state what those are explicitly.

But bishops should also be open to the possibility that the faithful are more concerned about teachers' rightful conduct at work than fixating on their personal lives, intimate relationships, and sexual practices at home. It is a perspective that is consistent with the Gospels, the most important church teaching of them all: Jesus rarely spoke about sexuality, but he did speak often against lifestyles that expressed hatred and conduct that harmed others, especially children. Those teachings would ground expectations in any ministerial covenant very well.