

Religious School Not Liable For Terminating Teacher Who Lived Out Of Wedlock With Her Boyfriend

By [Michael A. S. Newman](#) on December 19th, 2011

In [Henry v. Red Hill Evangelical Lutheran Church of Tustin, California Court of Appeal for the Fourth District](#), plaintiff Sara Henry (Henry), a teacher at a school affiliated with the Lutheran church, was terminated when the school learned that she was living out of wedlock with her boyfriend, with whom she had a child.

When the school discerned that she did not intend to marry her boyfriend, or cease to live with him, it terminated her. The school terminated Henry because her conduct in living with her boyfriend violated the religious beliefs of the church and the school.

Henry sued Red Hill Evangelical Lutheran Church of Tustin for (1) marital status discrimination under the Fair Employment and Housing Act ("FEHA"); and (2) for wrongful termination.

The Court of Appeal held as follows:

1. Plaintiff's FEHA claim was barred because the church does not qualify as an "employer" under [Cal. Gov. Code 12926\(d\)](#), which provides that "'Employer' does not include a religious association or corporation not organized for private profit." Thus, FEHA prohibitions against marital status discrimination do not apply.
2. Henry's employment was terminated for religious reasons for which the church and the school are exempt under [Title VII of the 1964 Civil Rights Act](#), barring her wrongful termination claim. Under Title VII's "religious exemption," the Court of Appeal held, a religious organization may terminate a person whose conduct violates the religious beliefs of the employer.
3. Her claim for wrongful termination in violation of public policy is barred by the ministerial exception, which protects religious organizations from the normally attendant adverse consequences of employment discrimination where the employee is a minister or possesses "duties functionally equivalent to those of ministers." Here, Henry, in teaching religious doctrine to young children, qualified for this exception.

This case demonstrates the interesting tension between religious freedom on the one hand, and the right to be free of discrimination in the workplace on the other. The framers of our laws have determined that the former right trumps the latter.