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OPINION OF THE SEVENTH CIRCUIT
(FEBRUARY 13, 2018)

UNITED STATES COURT OF APPEALS,
SEVENTH CIRCUIT

MIRIAM GRUSSGOTT,

Plaintiff-Appellant,

v.

MILWAUKEE JEWISH DAY SCHOOL, INC.,

Defendant-Appellee.

No. 27-2332

Appeal from the United States District Court
for the Eastern District of Wisconsin.
No. 16-CV-1245-J.P. Stadtmueller, Judge.

Before: BAUER, KANNE, and
BARRETT, Circuit Judges.

PER CURIAM

Miriam Grussgott, a Hebrew teacher, sued her former employer, Milwaukee Jewish Day School, for firing her in violation of the Americans with Disabilities Act. The school moved for summary judgment, arguing that the First Amendment's ministerial exception to employment-discrimination laws, including the ADA, barred Grussgott's suit. The district court granted the motion, concluding that the school is a

religious institution and that Grussgott's role there was ministerial. We affirm.

I. Background

Our account of the facts here tracks the summary-judgment standard, setting forth the facts that cannot reasonably be disputed based on the record evidence, but also giving Grussgott, as the non-moving party, the benefit of conflicts in the evidence and drawing reasonable inferences in her favor. *See Carson v. ALL Erection & Crane Rental Corp.*, 811 F.3d 993, 994 (7th Cir. 2016).

Milwaukee Jewish Day School is a private school dedicated to providing a non-Orthodox Jewish education to Milwaukee school children. Students are taught Jewish studies and Hebrew and engage in daily prayer. The school also employs a rabbi on staff and has its own chapel and Torah scrolls. But the school does not require its teachers to be Jewish and has an antidiscrimination policy expressly barring discrimination on the basis of religion, as well as race, gender, and sexual orientation.

The school hired Grussgott in 2013 to teach both Hebrew and Jewish studies to first-and second-graders. Grussgott had an extensive background teaching both of these subjects, which was relevant to the school's decision to hire her. She was then rehired for the 2014-15 school year as a second-and third-grade teacher, but the parties' opinions regarding her duties at this time differ. Grussgott states that she was rehired solely as a Hebrew teacher and that she had no job responsibilities that were religious in nature. She says that during the 2014-15 school year, she was no longer invited to attend the Jewish Studies meetings that she

had been required to attend the previous year. She does acknowledge, however, that she taught Hebrew from an integrated Hebrew and Jewish Studies curriculum, known as Tal Am, and that she attended community prayer sessions. She also concedes that she discussed Jewish values with her students, taught about prayers and Torah portions, and discussed Jewish holidays and symbolism. But, she asserts, this teaching was done from a cultural and historical, rather than a religious, perspective. She also attests that these portions of her lessons were taught voluntarily, not as part of her formal job requirements.

The school maintains that Grussgott continued to be employed as a Hebrew and Jewish Studies teacher during the 2014-15 school year and that she should have continued to attend the Jewish Studies meetings at this time. The school also disputes that Grussgott's teaching of prayer and the Torah was voluntary, maintaining that this was in fact part of the school's curriculum and mission generally.

Grussgott underwent medical treatment for a brain tumor in 2013 and ceased working during her recovery. She has since suffered memory and other cognitive issues. She returned to work in June 2014. During a March 2015 telephone call from a parent, Grussgott was unable to remember an event, and the parent taunted her about her memory problems. Grussgott's husband (a rabbi) then sent an email, from Grussgott's work email address, criticizing the parent for being disrespectful. The school terminated Grussgott after the incident. Grussgott then sued the school under the Americans with Disabilities Act, claiming that she was terminated because of her cognitive issues resulting from her brain tumor.

The school moved for summary judgment, arguing that because of Grussgott's religious role at the school, the ministerial exception barred her lawsuit. Grussgott's evidence in opposition included the declaration of Michael Broyde, an ordained rabbi and law professor at Emory University. Broyde stated that his knowledge regarding the ministerial exception led him to believe that it did not apply to Grussgott's duties. The district court disregarded this testimony, noting that the "application of precedent to a given factual scenario is a question of law, and the Court is the only expert permitted to address such questions." The district court determined that the ministerial exception applied to Grussgott, and consequently did not consider the merits of her ADA claim. Grussgott appealed and is now proceeding pro se.

II. Analysis

The primary issue before us is whether Grussgott was a ministerial employee. In 2012, the Supreme Court adopted the "ministerial exception" to employment discrimination laws that the lower federal courts had been applying for years. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C*, 565 U.S. 171, 188, 132 S.Ct. 694, 181 L.Ed.2d 650 (2012). Under both the Free Exercise Clause, "which protects a religious group's right to shape its own faith and mission through its appointments," and the Establishment Clause, "which prohibits government involvement in such ecclesiastical decisions," religious organizations are free to hire and fire their ministerial leaders without governmental interference. *Id.* at 188-89, 132 S.Ct. 694. The Court declined, however, to delineate a clear

test for determining who is a ministerial employee. *Id.* at 190, 132 S.Ct. 694.

Consequently, whether Grussgott's role as a Hebrew teacher can properly be considered ministerial is subject to a fact-intensive analysis. And usually such questions are left for a jury. Ultimately, however, even taking Grussgott's version of the facts as true, she falls under the ministerial exception as a matter of law. Her integral role in teaching her students about Judaism and the school's motivation in hiring her, in particular, demonstrate that her role furthered the school's religious mission.

As a preliminary matter, we must confirm that the school is a religious institution entitled to assert protection under the ministerial exception. Religious schools can be religious institutions capable of claiming the ministerial exception. *See Hosanna-Tabor*, 565 U.S. at 188-89, 132 S.Ct. 694. Grussgott argues that the school is not a religious institution because it does not adhere to Orthodox principles, employs a rabbi only in an advisory (rather than supervisory) capacity, and has a nondiscrimination policy. But the school's decision to cater toward Conservative, Reform, and Reconstructionist Jewish families, as opposed to Orthodox ones, does not deprive it of its religious character. *See Shaliehsabou v. Hebrew Home of Greater Wash., Inc.*, 363 F.3d 299, 310 (4th Cir. 2004) (explaining that key inquiry is whether organization's "mission is marked by clear or obvious religious characteristics"). Nor is there any requirement, as Grussgott seems to think, that a religious institution employ "ordained clergy" at the head of an "ecclesiastical hierarchy." Such a constraint would impermissibly favor religions that have formal ordination

processes over those that do not. *See Hosanna-Tabor*, 565 U.S. at 198, 132 S.Ct. 694 (Alito, J., concurring); *see also Larson v. Valente*, 456 U.S. 228, 244, 102 S.Ct. 1673, 72 L.Ed.2d 33 (1982) ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.").

Further, the school's nondiscrimination policy does not constitute a waiver of the ministerial exception's protections. There is no requirement that an organization exclude members of other faiths in order to be deemed religious. *See Hosanna-Tabor*, 565 U.S. at 177, 132 S.Ct. 694 (finding school was religious organization even though lay teachers were not required to be Lutheran). And, in any event, a religious institution does not waive the ministerial exception by representing itself to be an equal-opportunity employer. *See Tomic v. Catholic Diocese of Peoria*, 442 F.3d 1036, 1041-42 (7th Cir. 2006), *abrogated on other grounds by Hosanna-Tabor Evangelical Lutheran Church and School v. E.E.O.C*, 565 U.S. 171, 132 S.Ct. 694, 181 L.Ed.2d 650 (2012). We therefore should not use the school's promotion of inclusion as a weapon to challenge the sincerity of its religious beliefs.

The closer question is whether Grussgott's role can properly be considered ministerial. This case presents the first opportunity for us to address the ministerial exception in light of *Hosanna-Tabor*. Consequently, Grussgott's argument focuses on differentiating herself from the teacher in that case, and she is correct that her role is distinct from the called teacher's in *Hosanna-Tabor*. But the Supreme Court expressly declined to delineate a "rigid formula" for deciding when an employee is a minister. *Hosanna-*

Tabor, 565 U.S. at 190, 192, 132 S.Ct. 694. Instead, the Court emphasized that it was conducting a fact-intensive analysis, considering (1) "the formal title" given by the Church, (2) "the substance reflected in that title," (3) "[the teacher's] own use of that title," and (4) "the important religious functions she performed for the Church." *Id.* at 192, 132 S.Ct. 694.

As noted by The Becket Fund for Religious Liberty in its amicus brief, other courts of appeals have explained that the same four considerations need not be present in every case involving the exception. *See Fratello v. Archdiocese of N.Y.*, 863 F.3d 190, 206 (2d Cir. 2017) (concluding that lay principal was covered by ministerial exception after discussing considerations in *Hosanna-Tabor*); *Conlon v. Inter Varsity Christian Fellowship*, 777 F.3d 829, 835 (6th Cir. 2015) (finding that the ministerial exception applied when only two of four *Hosanna-Tabor* factors were present); *Cannata v. Catholic Diocese of Austin*, 700 F.3d 169, 176 (5th Cir. 2012) ("Any attempt to calcify the particular considerations that motivated the Court in *Hosanna-Tabor* into a 'rigid formula' would not be appropriate"). But because they provide a useful framework, we examine those factors here.

First, Grussgott's job title cuts against applying the ministerial exception. She identifies her role as "grade school teacher." This ostensibly lay title is distinct from *Hosanna-Tobor*, in which the plaintiff was a "called teacher" (as opposed to a "lay teacher") who had been given the formal title of "Minister of Religion, Commissioned." *Hosanna-Tabor*, 565 U.S. at 178, 191, 132 S.Ct. 694. And even if we consider her title to be "Hebrew teacher," this alone would not show that Grussgott served a religious role. One might have

this same title at a public school and perform a completely secular job, although, in this case, the school insists that its students learn Hebrew as a religious exercise that cannot be characterized simply as foreign-language instruction. In any case, Grussgott's title alone, while "surely relevant," is not "by itself" dispositive. *Id.* at 193, 132 S.Ct. 694. Assuming that Grussgott had the purely secular title of "grade school teacher does not rule out the application of the ministerial exception. *See Tomic*, 442 F.3d at 1040-41 (applying exception to organist/music director); *Alicea -Hernandez v. Catholic Bishop of Chi.*, 320 F.3d 698, 704 (7th Cir. 2003) (applying exception to press secretary).

Grussgott's use of her title also does not support the application of the ministerial exception. In analyzing this factor, other circuits have examined how an employee presented herself to the public. *See Conlon*, 777 F.3d at 835 (concluding that teacher who occasionally led prayer did not satisfy this consideration because she did not have public role interacting with community); *Fratello*, 863 F.3d at 208 (explaining that school principal presented herself as spiritual leader by leading school prayer and conveying religious messages in speeches and newsletters). There is no evidence that Grussgott ever held herself out to the community as an ambassador of the Jewish faith, nor that she understood that her role would be perceived as a religious leader, *See Conlon*, 777 F.3d at 835; *Fratello*, 863 F.3d at 208, Rather, she has consistently maintained that her teaching was historical, cultural, and secular, rather than religious. Although, as discussed below, we cannot consider the accuracy of this distinction (which the school insists does not exist),

how Grussgott defined her position at the school and to the community is relevant.

The substance reflected in Grussgott's job title, on the other hand, weighs in favor of applying the ministerial exception. True, teachers at the school were not required to complete rigorous religious requirements comparable to the teacher in *Hosanna-Tabor*. *See* 565 U.S. at 191, 132 S.Ct. 694 (noting that it took plaintiff six years to complete educational coursework and other requirements to become commissioned minister). And though Grussgott obtained the certification required for Tal Am, the record lacks any description of what this entailed other than the completion of seminars in either the United States or Israel. *See Canton*, 777 F.3d at 835 (finding this factor was not demonstrated when employee received certification in "spiritual direction" but court was not provided with further details). But Hebrew teachers at Milwaukee Jewish Day School were expected to follow the unified Tal Am curriculum, meaning that the school expected its Hebrew teachers to integrate religious teachings into their lessons. Grussgott's resume also touts significant religious teaching experience, which the former principal said was a critical factor in the school hiring her in 2013. Thus, the substance of Grussgott's title as conveyed to her and as perceived by others entails the teaching of the Jewish religion to students, which supports the application of the ministerial exception here. *See Fratello*, 863 F.3d at 208.

The final factor also supports the application of the ministerial exception. Specifically, Grussgott performed "important religious functions" for the school. *Hosanna-Tabor*, 565 U.S. at 192, 132 S.Ct. 694; *see*

Alicea-Hernandez, 320 F.3d at 703. Grussgott undisputedly taught her students about Jewish holidays, prayer, and the weekly Torah readings; moreover, she practiced the religion alongside her students by praying with them and performing certain rituals, for example. Grussgott draws a distinction between leading prayer, as opposed to "teaching" and "practicing" prayer with her students. She also challenges the notion that the "Jewish concept of life" taught at Milwaukee Jewish Day School is religious, claiming this too is predominately taught in a historical manner. But Grussgott's opinion does not dictate what activities the school may genuinely consider to be religious. "What makes the application of a religious-secular distinction difficult is that the character of an activity is not self-evident." *See Corp. of Presiding Bishop of Church of Jesus Latter-day Saints v. Amos*, 483 U.S. 327, 343, 107 S.Ct. 2862, 97 L.Ed.2d 273 (1987) (Brennan, J., concurring in judgment). For example, some might believe that learning the history behind Jewish holidays is an important part of the religion. Grussgott's belief that she approached her teaching from a "cultural" rather than a religious perspective does not cancel out the specifically religious duties she fulfilled.

Further, there may be contexts in which drawing a distinction between secular and religious teaching is necessary, but it is inappropriate when doing so involves the government challenging a religious institution's honest assertion that a particular practice is a tenet of its faith. *See Sch. of Dist. of Abington Twp., Pa v. Schempp*, 374 U.S. 203, 306, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963) (Goldberg, J., concurring) (recognizing distinction between "teaching religion" and "teaching about religion" in determining what is

permissible to teach in public schools). And not only is this type of religious line-drawing incredibly difficult, it impermissibly entangles the government with religion. *See Amos*, 483 U.S. at 343, 107 S.Ct. 2862 ("[D]etermining whether an activity is religious or secular requires a searching case-by-case analysis. This results in considerable ongoing government entanglement in religious affairs."); *Alicea-Hernandez*, 320 F.3d at 702. This does not mean that we can never question a religious organization's designation of what constitutes religious activity, but we defer to the organization in situations like this one, where there is no sign of subterfuge. *See Tomic*, 442 F.3d at 1039.

Grussgott maintains that because she voluntarily performed religious functions but was not required to do so, she remained a secular employee. She concedes that she taught her students about prayer, Torah portions, and Jewish holidays, but says that it does not matter because she chose these topics. But whether Grussgott had discretion in planning her lessons is irrelevant; it is sufficient that the school clearly intended for her role to be connected to the school's Jewish mission. In *Hosanna-Tabor*, the Court considered it important that the plaintiff was "expressly charged" with "lead[ing] others to Christian maturity." *Hosanna-Tabor*, 565 U.S. at 192, 132 S.Ct. 694. Comparably, Milwaukee Jewish Day School expected Grussgott to follow its expressly religious mission and to teach the Tal Am curriculum, which is designed to "develop Jewish knowledge and identity in [its] learners." *Mission*, Hebrew and Heritage Curricula for Jewish Schools, http://www.talam.org/mission_html (last visited Jan. 10, 2017); *see Conlon*, 777 F.3d

at 835. This, combined with the importance of Grussgott's Judaic teaching experience in her being hired, confirms that the school expected her to play an important role in "transmitting the [Jewish] faith to the next generation." *Hosanna-Tabor*, 565 U.S. at 192, 132 S.Ct. 694. Even if Grussgott did not know this, the purpose of the ministerial exception is to allow religious employers the freedom to hire and fire those with the ability to shape the practice of their faith. Thus, it is the school's expectation—that Grussgott would convey religious teachings to her students—that matters. *See Cannata*, 700 F.3d at 177 (explaining that music director served ministerial role because he conveyed church's message to congregants, even though he believed he "merely played the piano at Mass" and completed secular duties).

Furthermore, although Grussgott maintains that any religious tasks she performed were voluntary, there is evidence that she was tasked with specific religious duties on occasion. At least once in 2015, the school rabbi asked her to take the second-graders to study the week's Torah portion. And even Grussgott's own (rejected) expert contradicts her assertion that any religious role she took on was voluntary: his declaration states that Grussgott is "called upon to 'lead in prayer' . . . in the course of a teaching component of her job."

In this case, at most two of the four *Hasanna-Tabor* factors are present. But even referring to them as "factors" denotes the kind of formulaic inquiry that the Supreme Court has rejected. And surely it would be overly formalistic to call this case a draw simply because two "factors" point each way. As the district court concluded, the "formalistic factors are greatly

outweighed by the duties and functions of [Grussgott's] position." The school intended Grussgott to take on a religious role, and in fact her job entailed many functions that simply would not be part of a secular teacher's job at a secular institution.

Eschewing a formal four-factor test, however, does not warrant adopting the approach of the amicus, which, though narrower, is just as formulaic. The amicus argues that we should adopt a purely functional approach to determining whether an employee's role is ministerial. In other words, it suffices to ascertain whether an employee performed religious functions and apply the exception if she did. But looking only to the function of Grussgott's position would be inappropriate. *See Cannata*, 700 F.3d at 176 ("[B]ecause the Supreme Court eschewed a 'rigid formula' in favor of an all-things-considered approach, courts may not emphasize any one factor at the expense of other factors."); *Conlon*, 777 F.3d at 835 (declining to decide whether the presence of the fourth factor is sufficient to find the ministerial exception applies). We read the Supreme Court's decision to impose, in essence, a totality-of-the-circumstances test. And it is fair to say that, under the totality of the circumstances in this particular case, the importance of Grussgott's role as a "teacher of [] faith" to the next generation outweighed other considerations. *See Hosanna-Tabor*, 565 U.S. at 199, 132 S.Ct. 694 (Alito, J., concurring). We do not adopt amici's position that "function" is the determining factor as a general rule; instead, all facts must be taken into account and weighed on a case-by-case basis.

As a final matter, Grussgott argues that the district court abused its discretion when it disregarded

Broyde's expert testimony. But the court acted reasonably by not considering Broyde's declaration. The declaration conveyed a legal opinion as to whether the ministerial exception applied to Grussgott. As the district court properly recognized, Broyde had overstepped his role as an "expert" by opining on the ultimate question of whether Grussgott was a ministerial employee. *United States v. Knoll*, 785 F.3d 1151, 1156 (7th Cir. 2015); Fed. R. Evid. 702(a). Courts do not consult legal experts; they are legal experts.

III. Conclusion

Some factual disputes exist in this case, but they are not enough to preclude summary judgment. Even if we disregarded the school's version of facts altogether, Grussgott's own admissions about her job are enough to establish the ministerial exception as a matter of law. For these reasons, we AFFIRM the district court's grant of summary judgment in favor of the defendant-appellee.

ORDER OF THE DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN (MAY 30, 2017)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MIRIAM GRUSSGOTT,

Plaintiff,

v.

MILWAUKEE JEWISH DAY SCHOOL INC.,

Defendant.

Case No. 16-CV-1245-JPS

Before: J. P. STADTMUELLER, U.S. District Judge

1. Introduction

Plaintiff Miriam Grussgott filed this action on September 16, 2016, alleging that Defendant Milwaukee Jewish Day School, Inc. violated her rights under the Americans with Disabilities Act ("ADA"). (Docket #1). Defendant moved for summary judgment on October 19, 2016, arguing that it is a religious organization, and that Plaintiff was a ministerial employee, rendering this dispute outside the purview of the ADA. (Docket #12). Pursuant to the parties' agreement, Plaintiff was permitted to conduct limited discovery on the issues raised in the motion. (Docket #23). That

discovery apparently took almost five months to complete, as Plaintiff did not submit her response to the motion until May 11, 2017. (Docket #26). Defendant offered its reply on May 23, 2017. (Docket #32). The motion is now fully briefed, and for the reasons explained below, it must be granted.

2. Standard of Review

Federal Rule of Civil Procedure 56 provides the mechanism for seeking summary judgment. Rule 56 states that the "court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *see Boss v. Castro*, 816 F.3d 910, 916 (7th Cir. 2016). A "genuine" dispute of material fact is created when "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The Court construes all facts and reasonable inferences in a light most favorable to the non-movant. *Bridge v. New Holland Logansport, Inc.*, 815 F.3d 356, 360 (7th Cir. 2016). In assessing the parties' proposed facts, the Court must not weigh the evidence or determine witness credibility; the Seventh Circuit instructs that "we leave those tasks to factfinders." *Berry v. Chicago Transit Auth.*, 618 F.3d 688, 691 (7th Cir. 2010). The non-movant "need not match the movant witness for witness, nor persuade the court that her case is convincing, she need only come forward with appropriate evidence demonstrating that there is a pending dispute of material fact." *Waldridge v. Am. Hoechst Corp.*, 24 F.3d 918, 921 (7th Cir. 1994).

3. Background

Because many of the core facts are at least facially in dispute, the Court will provide only a brief timeline here. A detailed description of the parties' facts, and their disputes thereof, will be provided in conjunction with the relevant analysis. All factual discussion is drawn from the parties' factual briefing, (Docket #28 and #34), unless otherwise indicated.

Defendant is a private primary school providing a Jewish education to Milwaukee schoolchildren. Plaintiff was hired for the 2013-14 school year to teach first and second grade Jewish Studies and Hebrew. The classes were so closely linked that both were addressed in a single regular staff meeting which was attended by a rabbi. She was hired for her extensive experience teaching Judaism in schools and congregations. After the first year, Defendant offered to continue Plaintiff's employment for the next school year, 2014-15. Plaintiff requested that she not teach first graders, and Defendant obliged. Plaintiff returned the next year, this time teaching Hebrew to second and third graders.

According to her complaint, Plaintiff suffers from mental impairment due to a brain tumor, the treatment of which caused her to leave work for a time. (Docket #1 at 2-3). In March 2015, Plaintiff had a confrontation with a student's parent, wherein the parent mocked Plaintiff for her mental limitations. *Id.* at 3. When Defendant heard about the incident, it fired Plaintiff

immediately rather than investigate the matter or engage in progressive discipline. *Id.* at 4.[1]

4. Analysis

As noted above, Defendant's motion presents only one issue: whether the ministerial exception to employment discrimination claims bars Plaintiff's suit. The ADA requires reasonable accommodation of employees with disabilities, and prohibits firing such employees because of their disabilities. *See* 42 U.S.C. § 12112(a), (b). This rule does not apply, however, to the "ministerial" employees of a religious organization. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 188 (2012), This "ministerial exception" is rooted in the First Amendment's religious clauses, Establishment and Free Exercise, in that a religious employer's First Amendment interests override the protections afforded to an employee by employment discrimination laws when both apply. *Id.* at 182-190.[2]

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[1] As part of her factual presentation, Plaintiff offers the testimony of Michael Broyde, a law professor at Emory University, "to provide expert testimony at trial on the question of whether the employee Miriam Grussgott is an except [sic) ministerial employee of the Milwaukee Jewish Day School under the holding of *Hosanna Tabor Evangelical Lutheran Church & School v. EEOC* and the related discrimination laws and relevant state law." (Docket #30 at 2). With due respect to Mr. Broyde, application of precedent to a given factual scenario is a question of law, and the Court is the only expert permitted to address such questions. *Jimenez v. City of Chicago*, 732 F.3d 710, 721 (7th Cir. 2013). His testimony has been entirely disregarded.

[2] The Seventh Circuit explained the reasoning behind the ministerial exception in addressing a claim of employment discrimination pursuant to Title VII:

For the exception to apply, the Court must find that Plaintiff is a "minister." *Id.* at 190-92. This does not mean that Plaintiff must be an ordained head of a congregation. *Id.* at 190. Rather, "[i]n determining whether an employee is considered a minister for the purposes of applying this exception, we do not look to ordination but instead to the function of the position."

As the Fifth Circuit first articulated in *McClure v. The Salvation Army*, 460 F.2d 553, 560 (5th Cir. 1972), "application of the provisions of Title VII to the employment relationship existing between . . . a church and its minister would result in an encroachment by the state into an area of religious freedom which it is forbidden to enter by the principles of the free exercise clause of the First Amendment." This rule, often referred to as "the ministerial exception," was further developed by the Fourth Circuit in *Rayburn v. General Conference of Seventh-Day Adventists*, 772 F.2d 1164 (4th Cir. 1985), and adopted by this circuit in *Young v. The Northern Illinois Conference of United Methodist Church*, 21 F.3d 184 (7th Cir. 1994). The court in *Rayburn*, recognizing tensions between freedom of religion on the one hand and the attempt to eradicate discrimination on the other, concluded that in the context of Title VII claims brought against a church by its ministers the "balance weighs in favor of free exercise of religion," 772 F.2d at 1168. The court explained that the "right to choose ministers without government restriction underlies the well-being of religious community." *Id.* at 1167. While this ruling may seem in tension with Title VII, we concur with the Fourth Circuit when it stated: "While an unfettered church choice may create minimal infidelity to the objectives of Title VII, it provides maximum protection of the First Amendment right to free exercise of religious beliefs." *Id.* at 1169.

Alicea-Hernandez v. Catholic Bishops of Chicago, 320 F.3d 698, 702-03 (7th Cir. 2003).

Alicea-Hernandez, 320 F.3d at 703. This inquiry is focused on the position the employee occupied, not the reasons for her termination; to ask whether the reasons were religious or secular would bring First Amendment concerns back to the fore. *Id.*; *Hosanna-Tabor*, 565 U.S. at 194-95.

Hosanna-Tabor is the most recent controlling precedent on application of the ministerial exception (the Seventh Circuit has not had occasion to squarely address the issue since 2012), and so the Court places its greatest reliance on that opinion. There, the Hosanna-Tabor Evangelical Church and School (the "Church") was a religious primary school. *Hosanna-Tabor*, 565 U.S. at 177. It employed two categories of teachers: "called," who have both academic and religious qualifications, and "lay," who had no religious requirements. *Id.* Cheryl Perich ("Perich") was hired as a lay teacher, then became a called teacher soon thereafter. *Id.* at 178. She received a "diploma of vocation" and became a commissioned minister. *Id.* Her duties included various secular (math, science, language arts classes) and religious (religion class, leading prayers, attending services) assignments. *Id.* Perich was diagnosed with narcolepsy, left work, and was eventually terminated when she attempted to return to work. *Id.* at 178-79.

The *Hosanna-Tabor* Court did not "adopt a rigid formula for deciding when an employee qualifies as a minister," or otherwise announce any elements to be followed, but instead engaged in a fact-intensive analysis based on the general principles cited above. *Id.* at 191-94. It found the following facts relevant:

1) Her title was "Minister of Religion, Commissioned," and she was tasked in performing that role in accordance with religious guidance;

2) The title required significant religious training as well as a formal commissioning by the congregation;

3) Perich held herself out as a minister, accepting the "called" teaching position, taking a religious employee tax allowance, and in seeking to return to work, stating that she felt that God was calling her back to a teaching ministry; and

4) Her job duties "reflected a role in conveying the Church's message and carrying out its mission," including regularly teaching religion classes and leading prayers.

Id. at 191-92. The Court further noted that "[a]s a source of religious instruction, Perich performed an important role in transmitting the Lutheran faith to the next generation." *Id.* at 192. In light of "the formal title given Perich by the Church, the substance reflected in that title, her own use of that title, and the important religious functions she performed for the Church," the Court held that she was a minister. *Id.*

Hosanna-Tabor also discussed errors made by the Court of Appeals in its decision on appeal. First, it gave too little weight to Perich's title, and the religious training and mission underlying it. *Id.* at 192-93. Second, the fact that lay teachers performed the same religious duties as Perich was relevant to, but not dispositive of, the question of whether her position was ministerial. *Id.* at 193. Finally, the Court of Appeals focused too much on the division of time

between religious and secular duties. *Id.* While this is a relevant factor, *Hosanna-Tabor* sought to avoid resolving the ministerial exception by merely referencing a stopwatch. *Id.*

Initially, the Court finds that Defendant is a religious organization entitled to claim the ministerial exception. Though *Hosanna-Tabor* and Seventh Circuit precedent focus on whether the subject employee is a minister, it is clear that the Court must make a preliminary determination of whether the employer is a religious group which enjoys First Amendment protection. *See Stately v. Indian Comm. Sch. of Milwaukee, Inc.*, 351 F.Supp.2d 858, 867-69 (E.D. Wis. 2004); *Ginalski v. Diocese of Gary*, No. 2:15-CV-95-PRC, 2016 WL 7100558, at *5 (N.D. Ind. Dec. 5, 2016). In most cases this issue is not disputed, and Plaintiff's attempt to contest it here is meritless.

Plaintiff concedes that Defendant is a private school providing a Jewish education. However, Plaintiff questions whether Defendant seeks to teach Judaism as a religion or from an historical and cultural perspective. The former is clearly predominant. Defendant was founded by rabbis who wanted to provide a non-Orthodox school option to Jewish families. Defendant's mission statement reads: "[w]here academic excellence and Jewish values prepare children for a lifetime of success, leadership and engagement with the world." (Docket #14-1 at 5).

Defendant's students are all Jewish and many non-Orthodox rabbis send their children to study there. Defendant claims that "[t]he religious mission of MJDS permeates every aspect of the school." (Docket #28 at 4). For instance, students engage in religious study and prayer daily, as well as observing Jewish

holidays and pre-Sabbath rituals. Defendant has a Jewish chapel and Torah scrolls and prominently displays religious texts on its walls. Defendant's policy and procedures manual (the "Manual") describes its religious nature and history, as well as including a section devoted to "Jewish Life." (Docket #14-1). Defendant's website boasts that it is "a place to strengthen children's connections to Jewish life." (Docket #28 at 6). Defendant maintains that while it does teach secular subjects so that its students may be prepared for later schooling, its Jewish mission and religious teaching are the reasons it exists. Parochial schools are considered religious organizations for purposes of applying the ministerial exception, and Defendant fits neatly within that category. *Fratello v. Roman Catholic Archdiocese of N.Y.*, 175 F.Supp.3d 152, 165 (S.D.N.Y. 2016) (collecting cases).

Plaintiff's only counterargument is that Defendant's policy and procedures manual (the "Manual") includes a non-discrimination provision which prohibits, *inter alia*, religious discrimination. (Docket #14-1 at 8-9). Plaintiff contends that this policy shows a lack of commitment to Judaism, as opposed to any other religion. Further, she argues that Defendant "would be violating its own policies if it discriminated based on religion, which means that no one who this policy applies to can be subject to the ministerial exemption." (Docket #28 at 4-5). This single provision of the Manual cannot stem the tide of other evidence cited above demonstrating Defendant's religiosity. Defendant unquestionably qualifies as a Jewish religious organization.

Returning to *Hosanna-Tabor's* primary inquiry, whether the subject employee can be considered a

"minister," Defendant maintains that Plaintiff's work was essential to its faith-based mission. Plaintiff taught a program called "Tal Am," "an integrated Hebrew and Jewish Studies curriculum which requires certification." (Docket #28 at 10). She both led and participated in daily prayers, and also taught certain prayers to students. Plaintiff included Jewish content in her classes, such as studying the Torah, using Jewish symbolism, and teaching about Jewish holidays. An e-mail from a substitute teacher to Plaintiff demonstrates that Judaic influence pervaded Plaintiff's daily teaching activities. (Docket #14-5).[3]

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[3] The e-mail reads:

Hi Miriam,

We got through all the pages you mentioned: 51, 52, 3 in the album, a gimel page, and reading Chayei Sarah (page 50 seemed to have been done already by most of them). We did not do the cut out stuff on the Chayei Sarah page or color it in. I never got any e-mail from you, but it was OK since we talked on the phone and I took notes. I left the new pictures, words, and gimel worksheets in your mailbox.

We went over the months, the days of the week, the weather, Modeh Ani, Sh'ma/V'ahavta. I called up volunteers, and most people who wanted to, got turns to lead or re-sing or place magnets on the board.

I introduced gav (and beten), gag, and gan with motions to go with them (and we did them as class and also with each kid getting an individual turn). We also reviewed what a kitah is (because they were unclear), and I introduced/reviewed what a gamal is, because it came up in our story of the parasha and it's a gimel word.

When we did the parasha, I used the big book for the pictures, and I had different kids come up to act out part of the Eliezer story (I guided them). I introduced what the cave of machpelah was, and we reviewed who Avraham, Sarah, Yitzchak, Eliezer, and Rivkah were. I had the kids recall what Avraham and Sarah

Plaintiff counters that Tal Am instructors do not need to be Jewish or even religious to obtain the required certification. Her participation in any prayers and inclusion of Jewish symbolism and holidays were purely voluntary and not part of her job requirements. Plaintiff further contends that her job had no real responsibilities or duties with regard to the Jewish religion. Defendant concedes that Plaintiff was not an ordained minister, and that her position as a grade school teacher did not reflect significant religious training or a formal commissioning process. Plaintiff was not required to have, and did not accept, a religious call to her position, nor did Defendant demand that Plaintiff conform her personal religious conduct to any standard.

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were famous for (that I know they learned about in kindergarten) and they remembered the term hachnasat orchim. Almost all of this I did in Hebrew, but often I would rephrase a Hebrew word in English to make sure they knew what was going on.

Overall the kids were not well behaved, and regardless of whether I explained instructions in Hebrew or English (and I always tried Hebrew first), having them maintain eye contact or follow directions was a huge challenge. I was actually surprised by this, since I do know all of them by name and I also know most of their parents. [Redacted] was completely non-compliant from the very beginning, and had to be removed from the room physically. Several others were blatantly disrespectful. Of course there were others who were angelic. We spent time on the rug at the beginning and end of class, time at the tables, and lots of time moving around. It's a very long class for them. I did also touch base with Barb Lutsky after class as well.

I hope you feel better soon! Let me know if you have any other questions or if you want me to elaborate on anything we did!

(Docket #14-5 at 2-3).

Plaintiff's role does not fit neatly within the factors *Hosanna-Tabor* found relevant. She is not an ordained minister and no one held her out as one, and her job did not require prior religious training or commissioning. In Plaintiff's case, however, these formalistic factors are greatly outweighed by the duties and functions of her position. *Hosanna-Tabor*, 565 U.S. at 199 ("The 'ministerial' exception should . . . apply to any 'employee' who leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith.") (Alito, J., concurring). Despite her protestations otherwise, Plaintiff's job involved teaching aspects of Judaism to primary schoolchildren. This included teaching Hebrew, teaching prayers, studying the Torah, recognizing Jewish holidays, and following the Tal Am program. As with Perich in *Hosanna-Tabor*, Plaintiff "performed an important role in transmitting the [Jewish] faith to the next generation." *Id.* at 192. Plaintiff stresses that she only taught Jewish Studies in her first year and Hebrew alone in the second. This contention is meaningless; Plaintiff admits to teaching a great deal about Judaism and specifically that her role was closely linked to Defendant's Jewish mission. (Docket #33-1 at 6-8).[4]

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[4] One admission is particularly damning:

> Request No. 26: Admit that your role as a Hebrew and Jewish Studies teacher was important and closely linked to MJDS' mission to promote, and educate its students about, Judaism.
>
> Response: Plaintiff admits to teaching Judaism/ practicing Jewish Religion.

(Docket #33-I at 8).

Seventh Circuit decisions preceding *Hosanna-Tabor* support this result. In *Alicea-Hernandez*, the Court of Appeals applied the ministerial exception to a church's press secretary, noting that her role was "critical in message dissemination, and a church's message, of course, is of singular importance." 320 F.3d at 704. The press secretary "served as a liaison between the Church and the community to whom it directed its message." *Id.* While she did not speak to the community as a whole, Plaintiff's job nevertheless communicated Defendant's Jewish message to the youngest of Milwaukee's Jewish flock. The *Tomic* court held that a church's music director qualified as a "minister," because the playing of religious music is an integral part of religious observance and he was involved in selecting appropriate hymns. *Tomic v. Catholic Diocese of Peoria*, 442 F.3d 1036, 1040-41 (7th Cir. 2006) *abrogated on other grounds, Hosanna-Tabor*, 565 U.S. at 195 n.4 (deciding that the ministerial exception is an affirmative defense, not a jurisdictional bar as *Tomic* believed). Like *Tomic*'s selection of music, Plaintiff's lesson plans, including their Judaic content, were set by Plaintiff. *See also Ginalski*, 2016 WL 7100558, at *4 (collecting cases ruling on the ministerial exception. since *Hosanna-Tabor*, which variously applied the exception to a "spiritual director," music director, music teacher, and a "called" Lutheran teacher, but not to a janitor, computer teacher, or a school librarian).[5]

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[5] Plaintiff cites two district court decisions which apply out-of-date standards to the ministerial exception, and are therefore inapposite. *Longo* found that an employee was not a minister, because the undisputed facts did not establish that "plaintiff's duties were 'exclusively religious' as in the *Powell* case, or even

Plaintiff's primary dispute is that in teaching her subjects and conducting various Judaism-centered class activities, she approached the religion from a cultural and historical perspective rather than a faith-based one. This issue revolves around Plaintiff's Hebrew class as opposed to Jewish Studies. Defendant argues that Hebrew is "more than just a language. It is an expression of Judaism[.]" (Docket #14 at 5). Hebrew is the language of Jewish religious texts, and the language itself is "imbued with religious symbolism." *Id.* In Defendant's view, Hebrew is not simply a second language course like Spanish; teaching Hebrew means teaching the Torah, Jewish heritage, and Judaism itself. *Id.* at 5-6. Plaintiff believes the opposite. To her, Hebrew is cultural and historical, not overtly religious. Plaintiff points to the following to support her position:

> Judaism has many fluent and articulate spokesmen who express via Hebrew their

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primarily religious in that they consisted of spreading the faith, or supervising or participating in religious ritual or worship." *Longo v. Regis Jesuit High Sch. Corp.*, 02-CV-1957-PSF-OES, 2006 WL 197336, at *7 (D. Colo. Jan. 25, 2006). This analysis is inconsistent with *Hosanna-Tabor*'s instruction that even a mix of secular and religious functions skewed towards the secular does not mean that an employee is not a minister. *Hosanna-Tabor*, 565 U.S. at 193-94. In *Guinan*, the court limited the ministerial exception to employees who "functioned as a minister or a member of the clergy," noting that "the application of the ministerial exception to non-ministers has been reserved generally for those positions that are, at the very least, close to being exclusively religious based, such as a chaplain or a pastor's assistant." *Guinan v. Roman Catholic Archdiocese of Indianapolis*, 42 F.Supp.2d 849, 852-53 (S.D. Ind. 1998). In light of *Hosanna-Tabor* and the other more recent precedent cited above, the ministerial exception clearly extends beyond *Guinan*'s boundaries.

> "Judaism" as cultural and secular. Our Founding Fathers were knowledgeable of Hebrew. Not one of them was Jewish. The official seal of Yale University, "Urim Ve Thumim," is Hebrew, even though Yale is not a Jewish School. Hebrew language, like Spanish, is cultural and historical but not predominately religious. Hebrew is the language of 7 million Israelis, a majority of whom are not "religious."

(Docket #29 at 3-5) (citations omitted).

The Court is not convinced that Plaintiff's scattershot evidence creates a genuine dispute of fact on the matter. More importantly, Plaintiff's position violates the principles behind the ministerial exception. The exception helps ensure that federal courts stay out of matters of faith and doctrine as required by the First Amendment. *Tomic*, 442 F.3d at 1039. Plaintiff's argument questions the tenets of Defendant's practice of Judaism, namely whether they can hold Hebrew as sacred. The First Amendment clearly protects Defendant's right to choose its religious beliefs, and the Court is unable to interfere in what is a matter of faith. *Emp. Div., Dep't of Human Res. of Or. v. Smith*, 494 U.S. 872, 886 (1990) ("Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.").[6] The

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[6] *DeMarco*, a Second Circuit case which preceded the modem development of the ministerial exception, provides a useful contrast. *Tomic*, 442 F.3d at 1041; *DeMarco v. Holy Cross High Sch.*, 4 F.3d 166, 171-72 (2d Cir. 1993). *DeMarco* held that a math teacher could proceed on his age discrimination claim, even though the reasons for terminating him involved his failure to

Court recognizes that in certain cases, a religious organization could abuse this deference by claiming that certain apparently secular activities are actually religious. Consideration of those hypothetical cases and their unique facts must wait until they arise.[7]

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carry out religious duties. *DeMarco*, 4 F.3d at 167. The two failures cited by his employer were attending mass and leading students in prayers. *Id.* The court noted that "[t]here may be cases involving lay employees in which the relationship between employee and employer is so pervasively religious that it is impossible to engage in an age-discrimination inquiry without serious risk of offending the Establishment Clause." *Id.* at 172. In the case at hand, however, the Second Court found that the district court should be able to try those discrete issues to a jury "without putting into issue the validity or truthfulness of Catholic religious teaching." *Id.* Plaintiff's case appears to be the hypothetical envisioned by *DeMarco.* Teaching Hebrew is so intertwined with Judaism that there is no way to separate out any of its secular components without questioning the validity of an aspect of Jewish belief, thereby offending the First Amendment.

[7] Plaintiff's analogy to the Spanish language is also inapt. Spanish is spoken by a wide range of persons across the globe with varying beliefs, and is not the sacred or symbolic language of any major religion. A better comparison would be Latin, the primary language of the Romans, whose empire has been extinct for centuries. Latin was also formerly the exclusive language of Catholic religious worship. While Latin was once a widespread form of communication, it is all but dead today. Nevertheless, many Catholic educational institutions still teach Latin as a sacred or liturgical language, connected to the institution's overall religious instruction. No one could reasonably believe that those schools are teaching Latin in an attempt to increase their students' communication skills. Hebrew is only a majority language in Israel. Plaintiff cannot reasonably contend that Defendant is teaching Hebrew so that its students may more easily converse with people thousands of miles away. Rather, like

Even assuming that instruction on Hebrew is secular, Plaintiff cannot dispute that a substantial portion of her classroom activities were directed at teaching the Jewish faith. Like *Hosanna-Tabor*, this Court will not consult a stopwatch to determine the ratio between her religious and secular instruction. In the same vein, *Tomic* observed that "Tomic's [music director] duties, unlike those, say, of the person who tunes the organ in St. Mary's Cathedral, had a significant religious dimension[.]" *Tomic*, 442 F.3d at 1041. Plaintiff taught many Jewish concepts to Jewish schoolchildren at a school which "is committed to providing academic excellence and to educating Jewish children in the values and traditions of our Jewish heritage." (Docket #14-1 at 5). Regardless of any secular duties Plaintiff may have had, this role included an unmistakable religious dimension. Though this case is not as clear cut as *Hosanna-Tabor*, Defendant's constitutional rights must override Plaintiff's employment discrimination concerns in a close case. *Rayburn v. Gen. Conf. of Seventh-Day Adventists*, 772 F.3d 1164, 1169 (4th Cir. 1985) ("While an unfettered church choice may create minimal infidelity to the objectives of Title VII, it provides maximum protection of the First Amendment right to the free exercise of religious beliefs."). Plaintiff must be considered a "minister," and she is therefore subject to the ministerial exception.

5. Conclusion

Because Plaintiff's former job is considered a ministry of Judaism, the First Amendment bars her from proceeding on an ADA claim against Defendant.

Latin in Catholic schools, learning Hebrew is a component of Defendant's Jewish curriculum.

Defendant's motion for summary judgment must be granted and this action dismissed with prejudice.

Accordingly,

IT IS ORDERED that Defendant's motion for summary judgment (Docket #12) be and the same is hereby GRANTED; and

IT IS FURTHER ORDERED that this action be and the same is hereby DISMISSED with prejudice.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 30th day of May, 2017.

BY THE COURT:

/s/ J. P. Stadtmueller
U.S. District Judge

MILWAUKEE JEWISH DAY SCHOOL STAFF POLICIES AND PROCEDURES, 2014-15

Milwaukee Jewish Day School
Staff Policies and Procedures
2014-2015 5774-5775

While Milwaukee Jewish Day School (MJDS) believes wholeheartedly in the policies, practices and procedures contained in this handbook, they are not conditions of employment and are presented as a matter of information only. Furthermore, the policies and procedures are not intended to create a contract between MJDS and any of its employees. MJDS reserves the right to revoke or change any or all of the policies, practices, procedures or benefits, in whole or in part, at any time, with or without notice (except to the extent certain benefits are provided in individual annual employment contracts).

The information in this document supersedes all previously published procedures and policies. If you have questions about anything in this document, please contact MJDS Business Administrator Christy Horn.

The final decision on any question regarding interpretation of MJDS's policies, practices and procedures rests with the Administration and the Board of Directors. No person other than the Head of School has authority to make any agreement for employment or change any policy or procedure in this document, any such agreement or change must be in writing and signed by the Head of School.

Notwithstanding any statement contained in this document, employment at MJDS is at-will, meaning you

or MJDS have the right to terminate your employment, with or without cause or notice, at any time (unless you have a written employment agreement signed by the Head of School that states otherwise).

INTRODUCTION

Mission

Milwaukee Jewish Day School is an independent, co-educational school for Jewish children from junior kindergarten through eighth grade. MJDS respects and embraces the diverse expressions of Jewish life.

Our mission statement reads: Where academic excellence and Jewish values prepare children for a lifetime of success, leadership and engagement with the world.

Philosophy

MJDS is committed to providing academic excellence and to educating Jewish children in the values and traditions of our Jewish heritage. A primary goal of our school is to prepare our students to successfully confront the rigors of daily life, while developing commitment to the Jewish community and the community-at-large.

MJDS strives to create an atmosphere that is respectful of all expressions of Judaism, to promote the acceptance of individual and collective responsibility and to develop within each student a positive Jewish identity. Our school cultivates an understanding and respect for other people and their cultures while embracing our own unique heritage.

We are committed to meeting the learning needs of each student. In seeking the highest level of each child's potential, we try to provide sophisticated concepts that can be interpreted on a variety of intellectual levels.

Critical thinking is fostered at all ages and in all areas of the curriculum. We want our students to confront the social and emotional issues facing young people today and be prepared for the challenges of tomorrow. We strive to prepare children academically, physically, emotionally, socially and spiritually for what lies ahead.

Milwaukee Community Support

As a beneficiary of the Milwaukee Jewish Federation, MJDS receives an allocation from the annual community campaign. The Federation also provides and maintains the Max and Mary Kohl Education building in which MJDS operates. MJDS is appreciative of all the community support that we receive from the Milwaukee Federation, the Jewish Community Foundation and the Helen Bader Foundation.

History

MJDS began in 1981 as the cooperative effort of a small group of parents and five community rabbis. It was their goal to create an option for parents who wanted an alternative to an Orthodox day school. Rabbi Barry Silberg and Rabbi Herbert Panitch, two of the founding rabbis, expanded this plan to include reform and conservative congregations and to develop a community-based school. The idea took hold, and Dr. Doris Shneidman was selected as the first director.

The school's enrollment includes children from many neighborhoods of Milwaukee and its suburbs. Our children come from homes of varying degrees of religious observance and from families in diverse occupational and economic circumstances.

MJDS has graduated more than 700 young men and women who have gone on to great successes in high school, college and in their personal and professional lives.

EMPLOYMENT PRACTICES

At-Will Employment

All employment at MJDS is "at-will" (unless you have a written employment agreement signed by the Head of School that states otherwise), which means that either you or MJDS may terminate the employment relationship with or without cause, with or without notice, at any time. This document does not limit the right to terminate employment at-will. Terms and conditions of employment with MJDS may be modified at the sole discretion of the Head of School, with or without notice.

Code of Conduct-School Wide

All members of the MJDS community (students, parents and staff) must work in partnership. Our primary aim in creating a Code of Conduct is to cultivate within our students and school community an understanding of the value of *derech eretz* (polite and respectful behavior) and maintain a respectful and safe learning environment.

Community Expectations

1. **Teachers are expected to:**
   - demonstrate respect for the Jewish life of the school.
   - teach and uphold school rules.
   - respect the physical, emotional and social well-being of all students

2. **Students are expected to:**
   - demonstrate respect for the Jewish life of the school.
   - respect the physical, emotional and social well-being of self and others.
   - respect the property of others and their school (fines will be assessed for damage to school property).
   - respect the right of all students to learn and all teachers to teach.

3. **Parents are expected to:**
   - demonstrate respect for the Jewish life of the school.
   - support the Code of Conduct.
   - support the work of the school and its teachers.
   - communicate to the student's teacher or team leader any changes in the student's life that may affect school performance.

Code of Conduct-Employee

MJDS employees are expected to act with the highest degree of professionalism and integrity both in and outside of school. Failure to live up to this high standard is not in the best interests of MJDS, its

employees or its students, and could warrant corrective action. There is no absolute formula that can be applied to corrective actions. Four basic criteria will be considered in establishing appropriate corrective or disciplinary action:

- Seriousness of the offense
- Facts and circumstances surrounding the case
- Past work record
- MJDS's action in past cases of a similar nature

Corrective discipline can range from verbal warning, suspensions, or immediate termination depending on the circumstances.

There are, however, some actions that are totally inappropriate for the work environment because they affect the safety and well-being of all employees. These types of actions can lead to immediate termination. The following list is not meant to be all-inclusive. The fact that a violation is not listed should not imply disciplinary action would not be taken.

MIRIAM GRUSSGOTT RESUME

Miriam Grussgott, M.A.
2745 West Morse Avenue
Chicago, IL 60645
morahmim@gmail.com

Educational Training:

McGill University, Montreal, QC
Masters of Arts in Education

Brooklyn College, City University of New York
Bachelor of Science in Education

Yeshiva of Flatbush, Brooklyn, NY
High School Matriculation

Continuing Education:

Tal Am trained, Responsive Classroom trained

Employment Experience:

Chicago Jewish Day School, September 2008-Present

Hebrew Judaic Studies Teacher of Second and Third grades

Lead teacher of Chumash and Parshat Hashavuah

Perelman Jewish Day School, Wynnewood, PA, 2004-2008

Tenured Hebrew Judaic Studies teacher of Second, Third and Fourth Grades

Special Education General Studies Teacher of Fourth Grade

General Studies Enrichment Teacher for English Enrichment

Solomon Schechter Day School of Bergen County, NJ, 2001-2004

Judaic Studies Teacher of Second Grade

Solomon Schechter Day School of Raritan Valley, NJ, 1999-2001

Judaic Studies Teacher of Second Grade

Librarian

Congregation Shaar Hashomayim, Montreal, QC, 1993-1998

Bat-Mitzvah Program Director, Adult Educator, Lecturer

Designed and implemented all Bat-Mitzvah trainings in both groups and individual formats.

Designed, taught and administered an introductory course on Jewish religious family traditions.

Lectured on various topics including: Women in Judaism, Psychological

Effects in Children of Holocaust Survivors, Biblical Exegesis, Maimonidean

Ideals, Sukkot as a Spiritual and Aesthetic Experience

Shaare Shamayim, Philadelphia, PA, 1984-1993

Hebrew School Teacher of Seventh Grade

Family Workshop Program Director

Facilitated discussions on Jewish values in both separate and combined parent-child formats.

Directed workshop for parents of children in Kitah Aleph to equip them with the Skills being acquired by their children.

Camp Raleigh, Livingston Manner, NY Summers of 1989-1991

Jewish Studies Staff

Developed and taught summer camp curriculum to children ages 9-15

Emphasized experiential format using creative workshops teaching Mega lot

Esther and Ruth, Jewish Law Custom and Jewish History

Professional References:

Jay Leberman, Head of School,
Perlman Jewish Day School

Chagit Nussbaum, Hebrew Principal-Perelman

Ronit Levy Lead Teacher of Hebrew,
Chicago Jewish Day School

SUPREME COURT
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