

No. 26-157

IN THE
Supreme Court of the United States

JASVINDER SINGH, et al.,
Petitioners,
v.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WASHOE, et al.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF NEVADA

**BRIEF OF *AMICI CURIAE* FORMER EEOC GENERAL
COUNSEL AND RELIGIOUS NONDISCRIMINATION EX-
PERT IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICI CURIAE*¹

Amici are former Equal Employment Opportunity Commission (“EEOC” or “the Commission”) employees. Sharon Fast Gustafson is a former General Counsel of the EEOC who, during her time there, established a Religious Discrimination Work Group and promoted religious nondiscrimination and accommodation. Rachel N. Morrison was an attorney advisor to General Counsel Gustafson and a member of the Religious Discrimination Work Group. Both are experts in religion-related employment discrimination.

Amici offer this brief to explain how the Nevada Supreme Court’s position invites unconstitutional governmental intrusion into ecclesiastical matters in one context where such issues frequently arise: EEOC investigations of employment decisions of religious organizations. *Amici*’s knowledge of the Commission and its practices gives them a unique perspective on how the Nevada Supreme Court’s position will force small religious organizations to choose between financial ruin or surrendering meritorious First Amendments defenses and capitulating to government investigations or lawsuits.

¹ *Amici* provided notice of their intent to file this brief to all counsel of record on August 18, 2026, more than 10 days prior to the filing deadline. This brief was not authored in whole or in part by counsel for any party. No party or party’s counsel contributed money that was intended to fund preparing or submitting this brief. No person, other than *amici curiae*, their members, or their counsel, contributed money that was intended to fund preparing or submitting this brief.

INTRODUCTION AND SUMMARY

“The First Amendment protects the right of religious institutions ‘to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.’” *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 736 (2020) (quoting *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952)). Such “matter[s] of internal church government” are “at the core of ecclesiastical affairs.” *Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojeovich*, 426 U.S. 696, 721 (1976). Accordingly, church governance is “a matter over which the civil courts exercise no jurisdiction.” *Watson v. Jones*, 80 U.S. 679, 733 (1872).

Yet some courts of appeals and state high courts—including the Nevada Supreme Court below—have wrongly concluded that they can decide matters of church governance so long as they “apply neutral principles of law.” Pet. App. at 13a. While this Court has recognized a narrow “neutral principles” exception “as a means of adjudicating a church property dispute,” *Jones v. Wolf*, 443 U.S. 595, 604 (1979), these courts have massively expanded the exception’s reach. If these holdings are left undisturbed, the exception would swallow the First Amendment’s protection of church governance whole. If a court “simply asks whether ‘neutral principles’ can resolve [a] case, the answer will (almost) always be yes.” Lael Weinberger, *The Limits of Church Autonomy*, 98 Notre Dame L. Rev. 1253, 1277 (2023). Other courts of appeals and state high courts have therefore rejected the position

the Nevada Supreme Court adopted here, holding that the “neutral principles” exception is limited to property disputes. This Court should grant the petition to resolve this entrenched split on a highly important First Amendment question.

Amici are deeply familiar with one area where these questions frequently arise: EEOC investigations. The EEOC investigates charges of employment discrimination against a wide range of employers, including religious organizations. Most claims of employment discrimination against religious organizations could be framed under “neutral principles of law,” and would therefore be unprotected under the Nevada Supreme Court’s position. If the First Amendment’s protections do not apply to claims of employment discrimination, EEOC investigators may pursue charges without regard to whether the charging employee is a minister, whether the employment decision was based in religious doctrine, or whether it implicates church governance.

Such a regime invites unconstitutional government interference with First Amendment rights. EEOC investigations are often expensive, time-consuming, and broad. Small religious organizations typically lack the financial wherewithal to vindicate their rights, creating immense pressure to settle before defense costs become unsustainable. Such organizations often cannot afford the legal fees and other expenses associated with EEOC investigations or litigation.

Making matters worse, government officials, like anyone not specifically educated in a particular religious tradition, are ill-equipped to make informed decisions about the role doctrine may have played in ecclesiastical decisions. And the “very process of inquiry leading to findings and conclusions” by government officials is highly intrusive into church governance, and risks misunderstandings of ecclesiastical matters. *NLRB v. Cath. Bishop of Chi.*, 440 U.S. 490, 502 (1979). Such investigations increase the risk of adverse government action reflecting “hostility to religion.” See, e.g., *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rts. Comm’n*, 584 U.S. 617, 639 (2018).

The expansive interpretation of the “neutral principles” exception has massive implications for religious organizations across the country, particularly those without the means, monetary or otherwise, to withstand an unconstitutional government investigation or litigation implicating matters of church governance. This Court should grant the petition.

ARGUMENT

I. First Amendment protections of church autonomy would be ineffective if they do not shield matters of church governance from lawsuits purportedly based on “neutral principles of law.”

Rooted in the Religion Clauses of the First Amendment, the church autonomy doctrine rests on the premise that “‘essentially religious controversies’ are an inappropriate subject matter for civil courts to decide.” *Cath. Charities Bur., Inc. v. Wis. Lab. & Indus.*

Review Comm’n, 605 U.S. 238, 269 (2025) (Thomas, J., concurring) (quoting *Milivojeovich*, 426 U.S. at 709).² This Court has long recognized that matters of “ecclesiastical government” and “church discipline” are protected by the church autonomy doctrine. *Watson*, 80 U.S. at 681; see also *Kedroff*, 344 U.S. at 116; *Milivojeovich*, 426 U.S. at 721–25. The Nevada Supreme Court’s decision deepens an entrenched split regarding whether the “neutral principles” approach reaches beyond real property disputes into matters of church governance. See Pet. at 7–19 (discussing the split among state high courts and federal courts of appeals).

As one side of the split correctly recognizes, the “neutral principles” exception to church autonomy is a “narrow” one that applies only to “certain disputes over church property.” *Lutheran Church – Mo. Synod v. Christian*, 178 F.4th 193, 201 (5th Cir. 2026); *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 157 F.4th 627, 640 n.3 (5th Cir. 2025). Regardless of whether a dispute can be framed under neutral principles, the First Amendment “forbids courts from adjudicating matters of church governance, including church discipline and the church’s understanding of its own membership.” *McRaney*, 157 F.4th at 639. Thus, courts have declined to consider matters such as “the proper construction of the bylaws in question,” or whether “members of the Committee on Boards . . . were without authority to serve in that

² Like Petitioners, *amici* use the terms “church autonomy doctrine” and “church governance” because of their familiarity, although First Amendment protections cover all religious faiths.

capacity.” *Crowder v. S. Baptist Convention*, 828 F.2d 718, 720, 727 (11th Cir. 1987).

Other courts, including the Nevada Supreme Court below, have taken a far broader view of the exception, but these decisions are “wrong.” Pet. at 20; see *id.* at 20–26. “The ‘neutral principles’ doctrine has never been extended to religious controversies in the areas of church government, order and discipline, nor should it be.” *Hutchison v. Thomas*, 789 F.2d 392, 396 (6th Cir. 1986). “[C]ivil courts have no jurisdiction to inquire into and to control the acts of the governing authority of a religious organization undertaken with reference to its internal affairs.” *Anderson v. Dowd*, 485 S.E.2d 764, 766 (Ga. 1997) (citing state-court precedents). Simply put, “[m]atters of church governance are not for the courts.” *Lutheran Church*, 178 F.4th at 202.

This Court’s recent “ministerial exception” decisions in the employment discrimination context demonstrate the First Amendment’s broad protections of church governance matters, and the narrow scope of the “neutral principles” doctrine. In *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, this Court held that the First Amendment “bar[s] the government from interfering with the decision of a religious group to fire one of its ministers.” 565 U.S. 171, 181 (2012). Forcing a religious group to retain a minister “interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs.” *Id.* In *Our Lady of Guadalupe School v. Mor-*

risey-Berru, this Court confirmed that religious institutions enjoy “independence in matters of faith and doctrine and in closely linked matters of internal government.” 591 U.S. 732, 747 (2020). In both cases, employees were terminated from their positions at religious schools for secular reasons. See *Hosanna-Tabor*, 565 U.S. at 179 (termination for “insubordination and disruptive behavior”); *Our Lady of Guadalupe*, 591 U.S. at 742 (termination for “poor performance”). These employee disputes could, theoretically, have been decided on neutral principles without analysis of church doctrine. Yet this Court held that civil court review of the employment decisions would violate the religious institutions’ First Amendment right to autonomy. See *Hosanna-Tabor*, 565 U.S. at 196; *Our Lady of Guadalupe*, 591 U.S. at 756–57. For that same reason, the Nevada Supreme Court’s intrusion into the internal governance of the Northern Nevada Sikh Society cannot stand.

Because the question presented is an important issue of religious liberty on which state high courts and the federal courts of appeals are divided, this Court should grant the petition.

II. EEOC investigations into a religious organization’s governance can infringe First Amendment rights, especially for small religious organizations.

If the “neutral principles” doctrine applies as broadly as the Nevada Supreme Court held, then sweeping governmental investigations into religious organizations—including by the EEOC—will pose a

grave threat to religious liberty. See Pet. at 33–34. The rulings by the Nevada Supreme Court and other courts of appeals undermine bedrock First Amendment protections for religious institutions. Without those clear protections, government agencies like the EEOC can conduct broad investigations into religious institutions’ internal governance, and institutions that lack the resources to resist and vindicate their rights will have to choose between compliance or insolvency. That is no choice at all.

Consistent with *Hosanna-Tabor* and *Our Lady of Guadalupe*, current EEOC guidance directs its staff to “resolve[]” the ministerial exception—a particular facet of the First Amendment’s protections of church governance³—“at the earliest possible stage before reaching [an] underlying discrimination claim.” U.S. EQUAL EMP. OPPORTUNITY COMM’N, COMPLIANCE MANUAL § 12-I, C.2 (Jan. 15, 2021).⁴ That guidance is explicitly based on the premise that the exception is “not just a legal defense . . . , but a constitutionally-based guarantee that obligates the government and the courts to refrain from interfering or entangling themselves with religion.” *Id.*⁵ The holdings of the Nevada

³ See *McRaney*, 157 F.4th at 636–41.

⁴ The guidance is not binding on courts, but is binding on EEOC staff. The pertinent section of the compliance manual is located at https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination/#h_26808142314071610748738049.

⁵ The EEOC was slow to adapt to the Court’s holding in *Hosanna-Tabor*, especially compared to its rapid adoption of new guidance following other Court decisions that bear on employment issues. Compare U.S. EQUAL EMP. OPPORTUNITY COMM’N, COMPLIANCE

Supreme Court and other courts of appeals that civil courts can decide any dispute based on “neutral principles” upend this understanding and undermine *Hosanna-Tabor* and *Our Lady of Guadalupe*.

In doing so, these decisions provide an opening for the Commission to reinsert itself into matters of church governance during investigations.⁶ Before *Hosanna-Tabor*, EEOC guidance was far less solicitous of the First Amendment. Rather than instructing staff to address constitutional protections first, the manual omitted any warning that the church autonomy protections should be resolved early. See U.S. EQUAL EMP. OPPORTUNITY COMM’N, COMPLIANCE MANUAL

MANUAL § 12-I, C.2 (Jan. 15, 2021) (reflecting change in the law nine years after *Hosanna-Tabor*), with, e.g., U.S. EQUAL EMP. OPPORTUNITY COMM’N, GUIDANCE DOCUMENT §§ I.B.1, I.C.1 (June 25, 2015), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues> (updating guidance on pregnancy discrimination three months after the Court’s decision in *Young v. United Parcel Serv., Inc.*, 575 U.S. 206 (2015)).

⁶ While Title VII offers a religious exemption in certain employment cases, 42 U.S.C. § 2000e-1(a), the EEOC has generally taken a narrow view of its protections, see, e.g., Amicus Br. for EEOC at 10, 16–17, *McMahon v. World Vision, Inc.*, No. 24-3259, 2024 WL 4720144 (9th Cir. Oct. 28, 2024) (arguing religious exemption did not protect undisputedly sincere religious employment decision). And employees of religious organizations often attempt to “collateral[ly] attack” a disputed “employment decision” via tort claims that the Title VII exemption would not reach. See, e.g., *Belya v. Kapral*, --- F.4th ---, No. 25-1085-cv, 2026 WL 2408741, at *7 (2d Cir. Aug. 18, 2026) (quoting *McRaney*, 157 F.4th at 653 n.9). The church autonomy doctrine thus provides critically important protection.

§ 12-I, C.2 (July 22, 2008), https://www.eeoc.gov/sites/default/files/migrated_files/policy/docs/religion.pdf. And in *Hosanna-Tabor*, the EEOC argued that there was no such thing as a ministerial exception at all. 565 U.S. at 189. Under prior leadership, the EEOC argued in litigation that “[t]he church autonomy doctrine . . . applies in limited circumstances,” not including when a religious institution has the burden to “explain the application of its own doctrines.” Brief of the Equal Employment Opportunity Commission as *Amicus Curiae* in Support of Appellee, *Garrick v. Moody Bible Inst.*, No. 21-2683, 2023 WL 6285025, at *15–18 (7th Cir. Sept. 8, 2023) (quoting *Geary v. Visitation of Blessed Virgin Mary Par. Sch.*, 7 F.3d 324, 330 (3d Cir. 1993)); see *U.S. Conf. of Cath. Bishops v. EEOC*, No. 2:24-cv-00691-DCJ-TPL, 2024 WL 7091650 (W.D. La. Nov. 12, 2024) (arguing that Plaintiffs could not “demonstrate their entitlement to a categorical exemption from the [Pregnant Workers Fairness Act] Final Rule’s requirements based on the church autonomy doctrine” and claiming the church autonomy doctrine permits the EEOC’s evaluation of “the religious entity’s explanation as to why granting the requested accommodation would pose an undue hardship”). Unless this Court grants review to correct the expansive view of the “neutral principles” exception, the EEOC could change its guidance to take these positions.

A return to prior form, where the EEOC aggressively pursues perceived Title VII violations by religious organizations, would severely restrict religious liberty and autonomy of church governance matters. Church autonomy issues, particularly the ministerial

exception, frequently arise in EEOC investigations and suits. See, *e.g.*, *Hosanna-Tabor*, 565 U.S. 171; *EEOC v. Roman Cath. Diocese*, 213 F.3d 795 (4th Cir. 2000); *EEOC v. Cath. Univ. of Am.*, 83 F.3d 455 (D.C. Cir. 1996) (*Cath. Univ. II*); *EEOC v. Sw. Baptist Theological Seminary*, 651 F.2d 277 (5th Cir. 1981).

Without clarification that the “neutral principles” doctrine narrowly applies to only real property disputes, EEOC staff will have free rein to launch long and onerous investigations into religious organizations and their governance, with all of the attendant costs. See *Rayburn v. Gen. Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1171 (4th Cir. 1985) (“A Title VII action is potentially a lengthy proceeding, involving state agencies and commissions, the EEOC, the federal trial courts and courts of appeal.”). EEOC investigations begin when an aggrieved person, one acting on behalf of such a person, or a member of the Commission itself files a charge of discrimination with the Commission. 42 U.S.C. § 2000e-5(b). After serving the employer with notice, Commission staff investigate the charge. *Id.* That investigatory power includes issuing and compelling compliance with subpoenas for witnesses and documentary evidence. 29 C.F.R. § 1601.16.

The Commission has 120 days—“so far as practicable”—to determine whether there is “reasonable cause to believe that the charge is true.” 42 U.S.C. § 2000e-5(b). If so, it attempts to use “informal methods of conference, conciliation, and persuasion” to resolve the matter. *Id.* If that process fails to resolve the dispute, the Commission may file suit. *Id.* at § 2000e-

5(f)(1). If the Commission determines that there is not reasonable cause to believe the charge is true, it dismisses the charge. *Id.* at § 2000e-5(b). And if the Commission dismisses the charge, does not file suit, or fails to resolve the matter through conciliation within 180 days, it shall provide notice to the aggrieved person that he or she may file suit. *Id.* at § 2000e-5(f)(1).

In practice, investigations are much more “time-consuming” than 120 or 180 days. See *VF Jeanswear LP v. EEOC*, 589 U.S. 1312, 1313 (2020) (mem.) (Thomas, J., dissenting from denial of certiorari). The EEOC represents that the average length of an investigation is ten months. U.S. EQUAL EMP. OPPORTUNITY COMM’N, *What You Can Expect After You File a Charge*, <https://www.eeoc.gov/what-you-can-expect-after-you-file-charge> (last visited Aug. 13, 2026). But this average includes investigations that are completed almost immediately, often because the EEOC lacks jurisdiction over the charge or the claims are time-barred. EEOC investigations that proceed past such threshold issues can take years. See, e.g., *EEOC v. Hosanna-Tabor Evangelical Lutheran Church & Sch.*, 582 F. Supp. 2d 881, 883–84 (E.D. Mich. 2008), *vacated*, 597 F.3d 769 (6th Cir. 2010), *rev’d*, 565 U.S. 171 (2012) (adjudicating EEOC suit filed two years and four months after charge); *Roman Cath. Diocese*, 213 F.3d at 799 (adjudicating EEOC suit filed three years and ten months after charge); *EEOC v. Cath. Univ. of Am.*, 856 F. Supp. 1, 2 (D.D.C. 1994) (*Cath. Univ. D.*), *aff’d*, 83 F.3d 455 (D.C. Cir. 1996) (recounting EEOC investigation

that concluded two years and three months after charge).⁷

Moreover, investigations can sprawl outside the scope of a charge’s allegations, expanding into church governance matters. In *VF Jeanswear*, for example, the EEOC issued a right-to-sue notice to the individual who filed a charge, but “continued with its own, far broader investigation” by issuing “a subpoena covering material that departed significantly” from the original allegations. 589 U.S. at 1316 (Thomas, J., dissenting from denial of certiorari). There is no reason to think that the Commission—if operating under the Nevada Supreme Court’s approach—will spare religious employers from these sorts of far-reaching investigations. Rather, the EEOC’s position in *VF Jeanswear* would permit a “universal investigation of any employer with a pending (or concluded) charge”—including religious employers. *EEOC v. VF Jeanswear, LP*, No. MC-16-00047-PHX-NVW, 2017 WL 2861182, at *6 (D. Ariz. July 5, 2017).⁸

Faced with an EEOC investigation and possible suit, religious organizations must rally a legal defense

⁷ Three Courts of Appeals have held that the EEOC need not end its investigation when it issues a right-to-sue letter. See *In re AAM Holding Corp.*, 153 F.4th 252, 261 (2d Cir. 2025); *EEOC v. Union Pac. R.R. Co.*, 867 F.3d 843, 848 (7th Cir. 2017); *EEOC v. Fed. Express Corp.*, 558 F.3d 842, 851–52 (9th Cir. 2009). But see *EEOC v. Hearst Corp.*, 103 F.3d 462, 469 (5th Cir. 1997) (holding otherwise).

⁸ Although the district court declined to enforce the EEOC’s wide-ranging subpoena, the Ninth Circuit reversed in part. *EEOC v. VF Jeanswear LP*, 769 F. App’x 477, 479 (9th Cir. 2019).

or capitulate. Under a wide-ranging “neutral principles” exception to First Amendment protections, investigations of religious organizations will increase in frequency and breadth, massively raising their costs. Consider *Catholic University II*, where the EEOC conducted an investigation for over two years before bringing suit. 83 F.3d at 459. The ensuing litigation lasted four years, including a one-week trial and appeal. *Cath. Univ. I*, 856 F. Supp. at 2; *Cath. Univ. II*, 83 F.3d at 470. The D.C. Circuit ultimately concluded that “the EEOC’s two-year investigation” and the ensuing litigation “constituted an impermissible entanglement” with religious doctrine. *Cath. Univ. II*, 83 F.3d at 467. But even though Catholic University prevailed and was not ultimately liable, it was forced to divert valuable time from its mission and pay its lawyers for *six years* of EEOC investigation and litigation.

Under the expansive view of the “neutral principles” exception, organizations with far fewer resources than Catholic University will have to foot these bills too. Religious congregations typically lack the funds to mount a full-fledged defense to an EEOC investigation. In 2023, the average-sized congregation (with 60 weekly in-person congregants) reported a median income of \$165,000. Hartford Institute for Religion Research, *Finances and Faith: A Look at Financial Health Among Congregations in the Post-Pandemic Reality* (July 2024), <https://www.covidreligionresearch.org/wp-content/uploads/2024/07/FinanceReport2024.pdf>. Minority religious congregations—such as the Sikh Society here—can face even greater challenges. See *id.* at 4 (noting that among non-Christian religious

groups, median income is only about \$53,000). Muslim and Jewish organizations, for example, are at a heightened risk of being forced to settle as “mosques, synagogues, and affiliated schools are often not connected to any central organization and therefore may lack the resources of a large denomination.” Brief of *Amici Curiae* Jewish Coalition for Religious Liberty, Muslim Public Affairs Council, the Aleph Institute, and Professor Asma Uddin in Support of Petitioner at 16, *Faith Bible Chapel Int’l v. Tucker*, 143 S. Ct. 2608 (Mem.) (2023) (No. 22-741), 2023 WL 2526754 (JCRL Br.).

The best-case scenario for religious organizations is that investigation or litigation “will ultimately vindicate” them, “but not before subjecting them to expensive” and time-consuming proceedings. Richard W. Garnett & John M. Robinson, Hosanna-Tabor, *Religious Freedom, and the Constitutional Structure*, CATO SUP. CT. REV. 307, 329 (2012), <https://www.cato.org/sites/cato.org/files/serials/files/supreme-court-review/2012/9/scr-2012-garnett.pdf>. The costs are “not only financial[], but also” consist of “the distraction” investigation or litigation poses for organizations “simply seeking to return to their ministry.” *Id.*; see also *Corp. of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 344 (1987) (Brennan, J., concurring in the judgment) (noting the role religious groups play in charitable endeavors). Organizations without the resources or capacity to resist must succumb to the government or structure their decisions around avoiding potential charges, rather than around their beliefs. See JCRL

Br. at 16 (litigating claims subject to the church autonomy doctrine will “require smaller congregations to decide whether to divert donations to legal-defense funds or forsake the religious autonomy guaranteed by the First Amendment”). Thus, even “the prospects of [EEOC] litigation” or investigation can impermissibly interfere with matters of church governance, because a religious group’s “process of self-definition would be shaped” in part by that fear. *Amos*, 483 U.S. at 342–44 (Brennan, J., concurring in judgment).

III. Unfettered EEOC investigations will lead to impermissible government involvement in ecclesiastical matters and governance.

Under the erroneously broad view of the “neutral principles of law” doctrine adopted below, EEOC investigations will inevitably lead to agency involvement with ecclesiastical matters and governance. This is no job for Commission investigators. It is not the place of government apparatchiks to examine internal church governance and employment determinations. Even “[g]ood intentions” cannot “avoid entanglement with [an organization’s] religious mission.” *Cath. Bishop*, 440 U.S. at 502.

Investigating employment decisions and church governance matters under a broad “neutral principles of law” doctrine will vitiate First Amendment protections of ecclesiastical matters. Investigators from EEOC and other agencies will approach discrimination claims against religious employers like any other, tap dancing through a minefield of doctrine and internal church governance all the while. *Cf. Carroll Coll.*,

Inc. v. NLRB, 558 F.3d 568, 572 (D.C. Cir. 2009) (emphasizing that the NLRB may not “troll[] through the beliefs of schools, making determinations about their religious mission, and that mission’s centrality to the ‘primary purpose’ of the school”). That process alone offends the Constitution, as “[i]t is not only the conclusions that may be reached by [an agency] which may impinge on rights guaranteed by the Religion Clauses, but also the very process of inquiry leading to findings and conclusions.” *Cath. Bishop*, 440 U.S. at 502; see *Combs v. Cent. Tex. Ann. Conf. of the United Methodist Church*, 173 F.3d 343, 350 (5th Cir. 1999) (taking issue with “secular authorities . . . evaluating or interpreting religious doctrine”); *Kedroff*, 344 U.S. at 116 (describing “matters of church government” as “free from state interference”).

EEOC investigators are unlikely to be sufficiently familiar with the doctrine of any particular religious organization, or that organization’s governance procedures, to navigate its nuances. Investigators, like “judges[,] cannot be expected to have a complete understanding and appreciation of the role played by every person who performs a particular role in every religious tradition.” *Our Lady of Guadalupe*, 591 U.S. at 757. That risk increases when an investigator deals with an unfamiliar religion, where an employee may lack “a familiar title” or have a role defined by “an unfamiliar cultural context.” JCRL Br. at 12. Several members of this Court have recognized that the government must use extra caution when engaging with “religious groups whose beliefs, practices, and mem-

bership are outside of the ‘mainstream.’” *Hosanna-Tabor*, 565 U.S. at 197 (Thomas, J., concurring); see *Our Lady of Guadalupe*, 591 U.S. at 753 (noting the danger of “privileging religious traditions with formal organizational structures over those that are less formal”); *id.* at 764 (Thomas, J., joined by Gorsuch, J., concurring) (arguing that legal analysis should be tailored “[t]o avoid disadvantaging . . . minority faiths”); *Hosanna-Tabor*, 565 U.S. at 198 (Alito, J., joined by Kagan, J., concurring) (similar).

Worse still, government intrusion into religious matters and governance can, at times, be infected by officials’ bias against religion or particular religious beliefs. See, e.g., *Masterpiece Cakeshop*, 584 U.S. at 639 (noting “official expressions of hostility to religion in some of the commissioners’ comments”); cf. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993) (voiding policies “stem[ming] from animosity to [a minority] religion”). EEOC investigators are no less fallible than other government officials. For instance, in a series of dialogue sessions involving then-General Counsel Gustafson, then-Commissioner, now-Chair Andrea Lucas, and Religious Discrimination Work Group member Morrison, some participants expressed concern that EEOC was not “view[ed] . . . as friendly to their religious beliefs.”⁹

⁹ See U.S. EQUAL EMP. OPPORTUNITY COMM’N, RELIGIOUS DISCRIMINATION IN EMPLOYMENT: GENERAL COUNSEL LISTENING SESSIONS FINAL REPORT at 11 (Jan. 2021). The report has been removed from the EEOC’s website, but is now available on the website of the Ethics and Public Policy Center, <https://eppc.org/wp-content/uploads/2023/02/Religious-Discrimination-in-Employment-General->

By keeping the government out of ecclesiastical matters and church governance, the church autonomy doctrine helps protect religions from the risks of government hostility. A wide-ranging “neutral principles of law” exception vitiates such protections.

That is why the First Amendment’s church autonomy doctrine keeps government officials, including EEOC officials, out of these ecclesiastical matters. The government should not conduct investigations of religious organizations, or interfere with their governance, wherever “neutral principles” could be applied. The Nevada Supreme Court’s contrary holding that the “neutral principles” doctrine is a wide-ranging exception to church autonomy runs afoul of this Court’s precedent, including its recent decisions in *Hosanna-Tabor* and *Our Lady of Guadalupe*. If allowed to stand, this view of the “neutral principles” exception places religious organizations, particularly small or minority organizations, in the EEOC’s crosshairs.

CONCLUSION

The Court should grant the petition for writ of certiorari.

Counsel-Listening-Sessions-Final-Report.pdf. See also 2026 REPORT, TASK FORCE TO ERADICATE ANTI-CHRISTIAN BIAS (April 30, 2026), <https://www.justice.gov/opa/media/1438506/dl?inline>.

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