



CATHOLIC LEAGUE

*For Religious
and
Civil Rights*

February 24, 2015

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VIA FAX & MAIL

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

Assemblyman Mark Stone
Chairman, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

Dear Assemblymen Hernández and Stone:

On February 23, Assemblyman Phil Ting and Assemblyman Kevin Mullin asked the Assembly Labor and Employment Committee and the Assembly Judiciary Committee to launch an investigation of the proposed high school contracts for teachers in the San Francisco Archdiocese. The request is not only illicit, it is based on faulty information.

As intended by the Founders, the First Amendment insulates religious institutions from state encroachment. At a minimum this means that employment contracts, entered into voluntarily by teachers at religious schools, are, with rare exception, not the business of the state. That the courts, especially the U.S. Supreme Court, have repeatedly validated this fundamental constitutional right is incontestable.

While the constitutional issues at stake trump all other concerns, it is worth noting several other matters attendant to this request.

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The basis of the request for a probe stems from a letter that eight members of the California legislature (noted below) sent to San Francisco Archbishop Salvatore Cordileone on February 17. It contains much misinformation.

The letter asks Archbishop Cordileone to "withdraw new conditions for employment" at the high schools. It is too bad the lawmakers didn't read the Media Advisory issued by the Archdiocese on February 3rd.

There are three new clauses to the contracts, but the contents do not represent a break with previous strictures. "At the outset," said Archbishop Cordileone, "I wish to state clearly and emphatically that the intention underlying this document is not to target for dismissal from our schools any teachers, singly or collectively, nor does it introduce anything essentially new into the contract or the faculty handbook." Indeed, the handbook and contract clauses, as explained by Superintendent Maureen Huntington, merely clarify existing expectations for Catholic teachers.

If the lawmakers disagree with this interpretation, then they should be precise: let them identify the new expectations for these teachers in the proposed contract.

In his letter of February 19 to the eight lawmakers, Archbishop Cordileone mentions that the legislators were making decisions based on erroneous information. He explicitly mentioned "the falsehood that the morality clauses apply to the teachers' private life." In their letter of February 17, these lawmakers claim that the contract affects the "professional, public, and *private* lives of every school employee" (my italic).

This statement is flatly wrong: the contract does not apply to the private lives of teachers. This is not open to interpretation. On February 4, the archdiocese released a statement on Church teachings and practices in the high schools. It stipulates that teachers "must refrain from public support of any cause or issue that is explicitly or implicitly contrary to that which the Catholic Church holds to be true...." It says nothing about the private lives of

teachers—it is speaking to the issue of publicly advocating causes that are in direct opposition to Church teachings.

A helpful Q&A statement on the contract proposals was also issued on February 4. Not only does it say that there is no "oath" being required of teachers, it even goes so far as to say that if teachers cannot assent to the teachings of the Catholic Church, "then they should at least avoid publicly undermining the lessons taught at the school of their employment."

At this point, I must ask every state legislator: If you had in your employ a person who publicly opposed your positions on law and public policy, what would you do? The answer is obvious. Why, then, should the Catholic Church be held to a different standard? Just like you, those who work for the Catholic Church are not expected to tolerate mutiny.

The Q&A does not shy from stating what is explicitly expected, and it has nothing to do with policing a teacher's private life. "What the new contract language seeks to do is point out that teachers in a Catholic school—regardless of their personal beliefs—have a professional obligation not to act publicly to 'contradict, undermine or deny' the religious message that the school exists to proclaim and which they are hired to advance. From the Archdiocesan viewpoint, this would mean public and active behavior that by its nature contradicts the school's message."

So, please, let's stop with accusations that the Archdiocese of San Francisco is interested in monitoring the private lives of its teachers.

In their letter of February 17 to Archbishop Cordileone, and in their letter of February 23 to you, the eight lawmakers charge that the archdiocese is seeking to reclassify all teachers as "ministers" so as to avoid state scrutiny in matters of employment.

In the Q&A that was issued February 4, this issue is dealt with directly. To begin with, there are plenty of lay ministries in the Catholic Church, many of whom do not have specialized training. This has been true for ages. More

important, consider what the high court has said. "The Supreme Court (see EEOC v. Hosanna-Tabor) has defined a minister as one to whom a church gives a leadership role in, and the primary duty of, helping the church spread its message and carry out its mission."

Contrary to what the lawmakers assert, the archdiocese is not promiscuously expanding the definition of a minister. "Not all employees of the Catholic Church are 'ministers,' but in a Catholic School, all teachers are ministers of our faith."

I speak from experience. I spent 20 years teaching in Catholic schools, ranging from the second grade through graduate school, and it most certainly was the clear expectation of parents who paid tuition for their children in elementary and secondary schools that they were being taught by men and women who were strong in the faith (I taught at an elementary school in Spanish Harlem in the 1970s, and later at a college in Pittsburgh). If that didn't matter, the Puerto Rican and African-American parents would have saved their money and sent their children to a public school.

The Archdiocese of San Francisco is not even demanding that its teachers are strong in the faith, though that is surely the desired outcome. It is simply asking teachers not to publicly challenge the teachings of the Church. To put it differently, it is not interested in facilitating institutional suicide.

As chairmen of two important committees, please understand the chilling effect that these eight lawmakers are having on the affairs of the archdiocese. Catholic schools have a mission, and while not everyone agrees with it, many do; they expect that their leaders can pursue it without fear of intimidation or punitive sanctions.

It must also be asked if these lawmakers are raising similar concerns with the leaders of other faith communities? Christian schools, yeshivas, and Islamic schools exist in San Francisco and other parts of California. Are any of their teacher contracts being scrutinized? If so, which schools are they? If

not, why are the high schools in the Archdiocese of San Francisco being targeted for investigation?

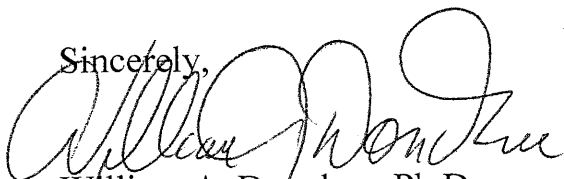
It cannot go unmentioned that the primary driving force behind this request for a probe is the issue of sexuality. That these lawmakers disagree with the Catholic Church's sexual ethics is hardly news, and that is their right. But no lawmaker has a right to impose sexual ethics of a secular nature on religious schools, including Catholic ones.

Finally, are we to believe that if a Catholic teacher were to publicly espouse racist views that these same lawmakers would not object? Indeed, would they not demand that he be fired? And would not Archbishop Cordileone make sure he was fired?

This is significant: racism, like abortion, is officially labeled as "intrinsically evil" by the Catholic Catechism. In other words, those who publicly promote abortion or racism have no legitimate role to play as Catholic ministers. Even those who do not agree that both of these issues should be seen as evil should at least respect the right of the Catholic Church to teach otherwise.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "William A. Donohue".

William A. Donohue, Ph.D.

President

cc: Members of the Assembly Labor and Employment Committee
Members of the Assembly Judiciary Committee

Hon. Phil Ting
Assemblyman, 19th District

Hon. Kevin Mullin
Assemblyman, 22nd District

Hon. Richard Gordon
Assemblyman, 24th District

Hon. Mark Leno
Senator, 11th District

Hon. David Chiu
Assemblyman, 17th District

Hon. Jerry Hill
Senator, 13th District

Hon. Marc Levine
Assemblyman, 10th District

Hon. Mike McGuire
Senator, 2nd District