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# FLORIDA

## EMPLOYMENT LAW LETTER

Part of your Florida Employment Law Service

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[www.HarperGerlach.com](http://www.HarperGerlach.com)

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#### Unionization

Labor unions continue to be in the news — from their efforts to ramp up organizing to the U.S. Supreme Court's recent decision overturning hundreds of National Labor Relations Board decisions. Do you know your rights and responsibilities when a union comes knocking? At [www.HRhero.com](http://www.HRhero.com), you can find the following tools to ensure you comply with the law:

- HR Sample Policy — Solicitation, [www.HRhero.com/lc/policies/213.html](http://www.HRhero.com/lc/policies/213.html)
- HR Sample Policy — Bulletin Boards, [www.HRhero.com/lc/policies/214.html](http://www.HRhero.com/lc/policies/214.html)

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### DISCRIMINATION

## Employer regulation of 'extracurricular' activities

*In mid-June, Florida made national headlines when a teacher in St. Cloud was fired. The teacher, Jarretta Hamilton, sued her former employer, Southland Christian School, for sex discrimination based on pregnancy, marital status discrimination under Florida law, and invasion of privacy. But what exactly is the school claiming is the reason for her termination?*

### Facts

In April 2009, Hamilton approached Jon Ennis, the principal at Southland, to request maternity leave for the fall. She alleges that during the meeting, he asked whether she conceived before her marriage approximately two months before. She answered yes. In fact, she became pregnant three weeks before her February 20 wedding. Ennis then terminated her based on the school's strict morality rules, which prohibit teachers from "fornication." She also alleges that the school's "management" informed staff as well as students' parents that the reason for her termination was that she "conceived prior to marriage."

Southland admits that Hamilton was terminated for having sex outside of marriage. The school, however, claims her termination doesn't rise to

the level of discrimination because it wasn't due to her pregnancy. Further, in its answer to Hamilton's complaint, filed in the U.S. District Court for the Middle District of Florida, Orlando Division, Southland claims as a defense that it's a religious educational institution and therefore the court doesn't have jurisdiction. It also claims exemptions to both federal and state pregnancy discrimination claims.

### Bottom line

This case is still in its infancy, as the only pleadings that currently have been filed are the complaint and answer. The next step is extensive discovery (the pretrial exchange of facts and documents) by both parties, and when that is complete, Southland will likely attempt to have Hamilton's case dismissed before trial. Many commentators believe that Hamilton will have a difficult time proving the discrimination claims but may have more success in winning an invasion-of-privacy claim against the school. This is a case to watch to see whether the court will accept jurisdiction over the Christian school and whether Hamilton can succeed in refuting its attempts to have her case dismissed. ❀

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