



# UNITED STATES DEPARTMENT OF EDUCATION

REGION II

FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK, NEW YORK 10278

AUG 7 1985

OFFICE FOR CIVIL RIGHTS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rabbi David Horowitz  
Director  
Be'er Shmuel Talmudical Academy  
1413 45th Street  
Brooklyn, New York 11219

Dear Rabbi Horowitz:

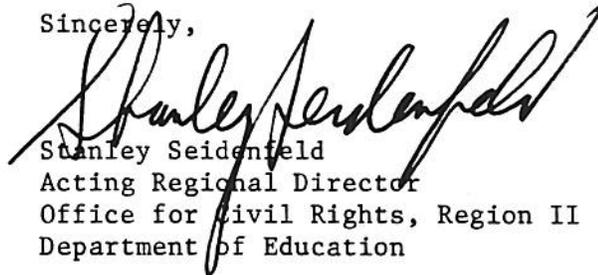
The Office for Civil Rights (OCR) of the Department of Education recently forwarded a request for information to Be'er Shmuel Talmudical Academy and several rabbinic and other institutions. This request is part of OCR's effort to resolve a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972.

In response to these requests, OCR received a letter dated April 16 from Agudath Israel of America (AIA) indicating its position that a request for religious tenets is constitutionally impermissible under the First Amendment of the United States Constitution. OCR recently responded to AIA outlining our responsibilities in granting religious exemption under Title IX. Since OCR's position may affect your request for exemption, a copy of this letter is enclosed for your reference.

OCR recognizes the constitutional concerns in providing OCR with a description of religious tenets. If your institution is still interested in receiving a religious exemption, then we recommend that you submit a statement regarding religious tenets or institution practices that are based on religious tenets which you believe conflict with the regulation. This will enable OCR to act on your request by confirming that the correct sections of the Title IX regulation have been cited in your request letter. For example, a statement such as - based on our religious tenets, the institution admits only men - enables OCR to confirm that an exemption to 34 C.F.R. §§ 106.21, 106.22 and 106.23 regarding admissions and recruitment is necessary. Also, a statement indicating, for example, that based on religious tenets, only men are permitted to teach certain courses, enables OCR to take action on those sections of the Title IX regulation regarding employment that may be specified in your request letter. Without information regarding institution practices to confirm that the sections of the regulation cited in your request letter are accurate, any exemption granted by OCR would have little practical impact. OCR would be required to investigate any complaint filed against your institution, to the extent that your institution receives Federal financial assistance, if we cannot determine the accuracy of the exemption requested or subsequently granted.

I hope this letter and the enclosed copy of the letter to AIA clarify OCR's intent in issuing the information request and OCR's responsibilities in granting religious exemptions. It would be appreciated if you responded no later than August 23, 1985. If you have any questions, please feel free to contact me or Ms. Marilyn Rabinowitz at (212) 264-4633.

Sincerely,



Stanley Seidenfeld  
Acting Regional Director  
Office for Civil Rights, Region II  
Department of Education

Enclosure