



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

Sep 24, 1985

Rabbi Tovia Goldstein
Dean
Beth Medrash Emek Halacha
1763 63rd Street
Brooklyn, New York 11204

Dear Rabbi Goldstein:

The Office for Civil Rights of the Department of Education (OCR/ED) recently requested additional information regarding Beth Medrash Emek Halacha's request for a religious exemption from Title IX of the Education Amendments of 1972.

In his response, which supplements the original exemption request, Rabbi Murray Yarmark describes certain policies practiced at Beth Medrash Emek Halacha as consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. Beth Medrash Emek Halacha has supplied information that establishes that the institution is controlled by a religious organization and that practices based on tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting Beth Medrash Emek Halacha an exemption to those sections of the Title IX regulation specified in Rabbi Yarmark's September 11, 1985, letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. Beth Medrash Emek Halacha is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.21, 106.22, 106.23, 106.51, 106.52, 106.53, 106.55, and 106.59. The basis for our decision to grant this exemption is discussed in further detail below.

The original request letter stated that Beth Medrash Emek Halacha is "controlled, conducted and operated by the Orthodox Jewish religion." This relationship between Orthodox Judaism and Beth Medrash Emek Halacha adequately establishes that Beth Medrash Emek Halacha is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

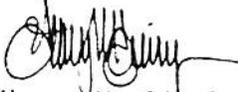
Rabbi Yarmark stated in his September 11 letter that religious tenets "require us to admit only male students and to hire only male faculty." Based on these practices, Beth Medrash Emek Halacha has requested and is granted by this letter exemption to: 34 C.F.R. § 106.21 (admission), § 106.22 (preference in admission), § 106.23 (recruitment of students), § 106.51 (employment), § 106.52 (employment criteria), § 106.53 (recruitment of employees), § 106.55 (job classification and structure), and § 106.59 (advertising).

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to the institution's request. I regret the inordinate delay in responding to the original request. If you have any questions, please do not hesitate to contact the New York Regional Office for Civil Rights. The address is:

Stanley Seidenfeld
Acting Regional Civil Rights Director
Office for Civil Rights, Region II
Department of Education
26 Federal Plaza, Room 33-130
New York, New York 10278

Sincerely,


Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosure

cc: Stanley Seidenfeld, Acting Regional Civil Rights Director, Region II