



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

SEP 23 1985

Rabbi Yisrael H. Eidelman
Executive Vice President
Mesivtha Tifereth Jerusalem of America
141-7 East Broadway
New York, New York 10002

Dear Rabbi Eidelman:

The Office for Civil Rights of the Department of Education (OCR/ED) recently requested additional information regarding the Mesivtha Tifereth Jerusalem of America's (Mesivtha) request for a religious exemption from Title IX of the Education Amendments of 1972.

In your response, which supplements your original exemption request, you describe certain policies practiced at the Mesivtha 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. You have supplied information in your request letters that establishes that the Mesivtha 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 the Mesivtha an exemption to those sections of the Title IX regulation specified in your September 3, 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. The Mesivtha Tifereth Jerusalem of America 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.

You stated in your original request that the Mesivtha is "maintained as an Orthodox Jewish Seminary with preparatory departments in accordance with the Jewish Orthodox faith with all its phases, facets, facilities and Governing Trustees in strict conformance with the tenets of the Orthodox Jewish Religious faith[.]" This relationship between Orthodox Judaism and the Mesivtha adequately establishes that the Mesivtha Tifereth Jerusalem of America is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your September 3 letter, you stated that religious tenets "require us to admit only male students and to hire only male faculty." Based on these practices, the Mesivtha 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 your 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