



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

SEP 23 1985

Rabbi Shrage Moshe Kalmanowitz
President and Dean
Mirrer Yeshiva Central Institute
1791-5 Ocean Parkway
Brooklyn, New York 11223

Dear Rabbi Kalmanowitz:

The Office for Civil Rights of the Department of Education (OCR/ED) has reviewed your response to OCR's letter of August 7, 1985, which requested additional information regarding Mirrer Yeshiva Central Institute's (Institute) request for a religious exemption from Title IX of the Education Amendments of 1972.

In your response, which supplements the original exemption request submitted by Rabbi Chaim Stern, you describe certain policies practiced at the Institute 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. The Institute 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 the Institute an exemption to those sections of the Title IX regulation specified in your August 20, 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. Mirrer Yeshiva Central Institute 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.

Rabbi Stern indicated in his original letter that the Institute was chartered and maintained as an Orthodox Jewish Seminary. Its trustees are mandated to conduct all its operations in strict accordance with Orthodox Jewish religious tenets. This relationship between Orthodox Judaism and the Institute adequately establishes that Mirrer Yeshiva Central Institute is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your letter, you stated that religious tenets "require us to admit only male students and to hire only male faculty." Based on these practices, the Mirrer Yeshiva Central Institute 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).

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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 your 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