
In the Matter of BETH JACOB HEBREW TEACHERS COLLEGE
Respondent.

Docket No. 94-10-EA
Student Financial Assistance Proceeding
Emergency Action

DECISION

On January 13, 1994, the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (ED) imposed an emergency action against the Beth Jacob Hebrew Teachers College (Beth Jacob) of Brooklyn, New York, in accordance with 20 U.S.C. § 1094(c)(1)(G) and 34 C.F.R. §§ 600.41 and 668.83. In response to the notice, on January 14, 1994, counsel for Beth Jacob requested an opportunity to show cause why the emergency action is unwarranted.

Pursuant to the Delegation of Authority from the Secretary to me to conduct proceedings and issue final decisions in circumstances where educational institutions request an opportunity to show cause why an emergency action is unwarranted, I conducted a hearing in Washington, D.C., on February 9-10 and 14, 1994. At the hearing, held in conjunction with hearings regarding emergency action proceedings against Sara Schenirer Teachers Seminary and the Academy for Jewish Education, Beth Jacob was represented by Yolanda Gallegos, Esq., of Dow, Lohnes & Albertson, Washington, D.C., while SFAP was represented by Howard Sorensen, Esq., from the ED Office of the General Counsel. The proceeding was transcribed by a Court Reporter.

According to the ED notice, the emergency action was based upon Beth Jacob's failure to satisfy either the definition of an institution of higher education, as set forth at 20 U.S.C.

§ 1141(a) and 34 C.F.R. § 600.4(a), or the definition of a postsecondary vocational school, as set forth at 20 U.S.C. § 1088(c) and 34 C.F.R. § 600.6. Satisfaction of one of these definitions is a prerequisite to participation in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 et seq. (HEA). To satisfy either of these definitions, an institution must be, among other things, accredited by a nationally recognized accrediting association or agency or must have been granted preaccreditation status. See 20 U.S.C. § 1141(a), 20 U.S.C. § 1085(a), and 20 U.S.C. § 1088(c). Noting that Beth Jacob, while accredited by the Accrediting Commission for Continuing Education and Training (ACCET), maintained only what ACCET termed "avocational" accreditation, ED concluded that such accreditation failed to satisfy the HEA accreditation requirement because it had no nexus with the offering of any HEA-eligible programs, i.e., a program with an occupational objective. ED further argued that Beth Jacob did not offer an eligible program under the provisions of 20 U.S.C. § 1088(c).

Beth Jacob has two programs which offer subcertifications within them. First, there is a religious studies program which trains teachers for Jewish schools. This program is divided into a two year, 66 credit, teachers program, and an advanced three and four year certificate program. Second, there is a Jewish culture program aimed toward assimilating new immigrants into the Orthodox Jewish community.

From the evidence presented, I find that the Jewish culture program is not an eligible program for HEA purposes. For further discussion on the applicable law regarding such programs, see my Decision in *In the Matter of Academy for Jewish Education*, Docket No. 94-11-EA, U.S. Dep't of Education (March 23, 1994).

At the hearing, the parties stipulated that Beth Jacob offers teacher training programs, that students who have graduated from the programs have become teachers, and that the opinion of witnesses would be that the programs prepared them to become teachers. As well, unrebutted testimony was taken indicating that Beth Jacob's certificate is recognized for licensure by Torah Umesorah, a national organization of Orthodox Jewish schools, and that Beth Jacob has a good rate of graduate hiring in the Jewish educational community. Consistent with the parties' stipulation and the testimony given, I find that Beth Jacob's teacher training programs are designed to prepare a student for gainful employment in a recognized field (teaching), and are, therefore, HEA-eligible programs. For further discussion on the applicable law

regarding such a program, note *In the Matter of Seminar L'Moros Bais Yaakov*, Docket No. 94-37-EA, U.S. Dept. of Education (March 21, 1994).

ED argues that Beth Jacob is not an eligible institution for HEA program purposes because accreditation from ACCET is labelled "avocational" for ACCET purposes. Discussion of the validity of this form of accreditation, in light of the finding that the programs are HEA eligible, is unnecessary. I find that Beth Jacob is appropriately accredited. See *In the Matter of Seminar L'Moros Bais Yaakov*, supra.

To be eligible to participate in any Title IV program, Beth Jacob must meet the definition of either an institution of higher education, as defined at 20 U.S.C. § 1141(a), or a postsecondary vocational institution, as defined at 20 U.S.C. § 1088(c). Both definitions require that the applicable program provide for training that prepares students for gainful employment in a recognized occupation. I have found that Beth Jacob met its burden in demonstrating that it has programs offering such training. Moreover, I have found that Beth Jacob's ACCET accreditation meets the mandates of the HEA, consistent with the above.

Finally, I note that this case is distinguishable from the above-cited cases. In order to qualify as an HEA eligible institution, a school must offer an HEA eligible program. Indeed, testimony given by the Director of the Institutional Participation Division, SFAP, indicates that so long as an institution offers one eligible program, even if a minute percent of an institution's students are enrolled in that program, the institution, itself, remains eligible. Beth Jacob offers such a program; therefore, it is an eligible institution. However, only those students enrolled within that program are eligible to receive HEA assistance.

Here the evidence suggests that students other than those enrolled in the eligible program may

have received HEA funds, however, as SFAP opted not to pursue this issue by emergency action, and since my jurisdiction is limited to such action, I leave this issue for a more appropriate forum.

The standard found at 34 C.F.R. § 668.83(c) states that an emergency action must be upheld if: 1) there is reliable information that Beth Jacob violated provisions of Title IV of the HEA; 2) immediate action is necessary to prevent misuse of Federal funds, and 3) the likelihood of financial loss outweighs the importance of adherence to the procedures for limitation, suspension, and termination actions. In light of the emergency action notice issued and the evidence presented, I find that Beth Jacob has met its burden and

established that the emergency action is not appropriate. Therefore, I hereby DISAPPROVE and SET ASIDE the emergency action.

SO ORDERED

Judge Ernest C. Canellos
Designated Deciding Official

ISSUED: March 25, 1994
Washington, D.C.