

---

In the Matter of ACADEMY FOR JEWISH EDUCATION,  
Respondent.

Docket No. 94-11-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 Academy for Jewish Education (Academy) of Forest Hills, 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 Academy 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 Beth Jacob Hebrew Teachers College, Academy 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 Academy's failure to satisfy either the definition of a 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 offer an eligible program under the applicable statutory provisions. ED alleges that Academy has failed to provide such a program.

Moreover, ED argues that in order to satisfy the above-stated 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). The Accrediting Commission for Continuing Education and Training (ACCET) has accredited Academy with the label of "avocational" accreditation. Hence, ED has concluded that such accreditation fails to satisfy the HEA accreditation requirement as it has no nexus with the offering of any HEA- eligible programs, i.e., a program with an occupational objective. For the purpose of deciding this case, however, this decision will focus on the

argument regarding the eligibility of Academy's programs; for discussion on the accreditation issue, see In the Matter of Seminar L'Moros Bais Yaakov, Docket No. 94-37-EA, U.S. Dept. of Education (March 21, 1994).

Academy was founded in 1986 in order to assist recent Russian immigrants with acclimating themselves within the Jewish- American culture. Academy's 1987-1989 catalog, for example, notes that it offers:

...a fund of Jewish cultural knowledge to enrich its students in relating to individuals of Jewish background and that this might serve as an important vocational tool to those interested in careers in Jewish education, synagogue administration, community service, youth counseling, senior citizens work and a variety of related fields.

Course-work is offered in diverse areas, such as Jewish law, history, customs and traditions, philosophy and thought, and Hebrew language. Academy offers two programs in Jewish culture: a two year, 48 credit, certificate program and a five year, 120 credit, diploma program. Argument was made, and evidence presented, that such knowledge is an important prerequisite to acquiring employment within the Jewish community; it may make an individual qualified for such occupations as a home attendant, kosher cook, food preparer, or funeral home attendant within such community. However, the training offered is not directed toward a specific occupation; rather, it is an attempt to streamline new immigrants into an otherwise insular social and employment environment.

ED asserts that since Academy neither awards a bachelor's degree nor offers a program of at least two years duration which is acceptable for full credit toward such a degree, it can only qualify as an institution of higher education under 20 U.S.C. § 1441(a), if it offers a program of training of at least one year in length that prepares students for gainful employment in a recognized occupation. Similarly, ED asserts that Academy cannot be qualified as a postsecondary vocational institution under 20 U.S.C. § 1088(c) as it does not provide an eligible program of training to prepare students for gainful employment in a recognized occupation.

The programs of training offered by Academy are clearly in excess of one year in length. Therefore, the success of ED's argument rests on whether Academy met its burden in demonstrating that its programs prepare students for gainful employment in a recognized occupation. It is difficult to objectively assess what, per se, prepares one for "gainful employment in a recognized occupation." Any degree of education, benefits or enriches a student in such a way as to enhance the student's worth as an employee. Therefore, I must turn to the program, itself. The Academy's Associate Director stated:

We do not train our students for any specific job. But we're giving them the basis of a very strong Jewish education and a strong education in Jewish culture so they can enter the job market on equal

footing with any Jew who's going to apply for a position in a field dealing with a Jewish establishment be it a Jewish school, a Jewish institution, or a Jewish home. (Transcript at 436.)

Academy offers a laudable program which habituates its students to become active members within both the Jewish social and employment communities. Also, it teaches the customs, laws, and traditions important to the Jewish way of life, and implicitly required for observance while employed in such settings; settings not necessarily otherwise open without such preparation. While commendable, I do not find that they are of the type contemplated within the HEA.

The HEA requires that an institution provide training that prepares students for gainful employment in a recognized occupation. As such, it is implicit that the statutorily intended goal or result of such a program be preparation for gainful employment in such an occupation; not that such a goal or result be potentially derived or incidentally available at the conclusion of the program. In short, a program of preparation should build toward a specific, employment oriented goal. Here, the programs are not driven toward a particular type of occupation. Rather, they provide training that may lay the foundation for qualification toward a variety of jobs within a specific community. The goal or result here seems to be directed toward assimilation into a particular culture, not toward a specific area of employment. While I note that there is no indication that Academy intended to circumvent the dictates of the HEA, I find that Academy's programs do not satisfy the applicable definitions at 20 U.S.C. §§ 1088(c) or 1141(a).

34 C.F.R. § 668.83(c) provides that an emergency action must be upheld if: 1) there is reliable information that Academy 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.

Here, Academy failed to meet its burden of showing that it meets the statutory definition of an eligible institution. Therefore, a violation of Title IV has occurred. As such, continuing to operate within the Title IV program would lead to further misuse of Federal funds. Moreover, given the fact that all aid disbursed by an ineligible institution is erroneous, the likelihood of loss does outweigh the importance of awaiting completion of the procedures for limitation, suspension, or termination actions.

Having found that the three-pronged test for imposition of an emergency action has been met, I **AFFIRM** the emergency action.

SO ORDERED.

---

Judge Ernest C. Canellos  
Designated Deciding Official

DATE: March 23, 1994  
Washington, D.C.