

UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

---

In the Matter of                    **Docket Nos. 94-43-ST**  
                                                 **94-80-ST**  
**BETH JACOB HEBREW TEACHERS**            Student Financial  
**COLLEGE,**                                    Assistance Proceeding

Respondent.

---

Appearances: Nahal Motamed, Esq. , George Shebitz & Associates, P.C., New York, NY, for Beth Jacob Hebrew Teachers College.

Howard Sorensen, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Student Financial Assistance Programs.

Before: Judge Richard F. O'Hair

**DECISION**

On February 10, 1994, the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (Department) issued a notice of intent to terminate the eligibility of the Beth Jacob Hebrew Teachers College ("Beth Jacob") to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* This termination notification followed an emergency action that was initiated by the Department against Beth Jacob on January 13, 1994, which, following a hearing, was set aside on March 25, 1994. Beth Jacob filed a request for hearing regarding the termination notification on March 4, 1994.

On April 26, 1994, SFAP issued a second notice of intent to terminate Beth Jacob, although this second termination notice affected only the school's Jewish Culture Program. This second termination notification followed a second emergency action which was initiated by the

Department against Beth Jacob's Jewish Culture Program on March 29, 1994. At the request of the parties, these two termination actions were consolidated by order of June 29, 1994, and subsequently have been treated as one proceeding, although the two programs offered by Beth Jacob, its Religious Education Program and its Jewish Culture Program, will be addressed independently herein. Because Beth Jacob sought a change in its accreditation status during the pendency of this proceeding, I granted Beth Jacob's request that a decision be stayed to permit

the accrediting agency to complete its evaluation. I received an announcement that Beth Jacob received an updated accreditation on February 2, 1996.

This termination proceeding is based on the alleged failure of Beth Jacob to satisfy the relevant statutory and regulatory definitions of an eligible institution under the HEA. In order for the institution to meet the definition of either an institution of higher education or a postsecondary vocational institution, it must satisfy two criteria. First, the institution must be accredited by a nationally recognized accrediting agency or association which is also recognized by the Secretary of Education (Secretary). The second element of this definition depends on the type of institution at issue. An institution of higher education must offer at least one program which either: 1) leads to an associate, baccalaureate, graduate, or professional degree; 2) is at least a two-year program that is acceptable for full credit toward a bachelor's degree; or, 3) is at least a one-year training program leading to a certificate or degree that prepares students for gainful employment in a recognized occupation. [See footnote 1 1](#) A post-secondary vocational institution, on the other hand, must offer at least a six-month training program leading to a certificate or degree that prepares students for gainful employment in a recognized occupation. [See footnote 2 2](#)

SFAP maintains that Beth Jacob does not satisfy any of these statutory definitions because Beth Jacob is not properly accredited and neither of its two programs: 1) leads to an associate, baccalaureate, graduate, or professional degree; 2) is a two year program that is acceptable for full credit toward a bachelor's degree; or, 3) prepares students for gainful employment in a recognized occupation. SFAP argues that the recent approval of Beth Jacob for vocational accreditation is only provisional and that Beth Jacob's programs do not offer training that prepares students for gainful employment in a recognized occupation . SFAP also contends that even if Beth Jacob is found to be otherwise eligible to participate in the Title IV, HEA programs, Beth Jacob's Jewish Culture Program does not offer a program of training that prepares students for gainful employment in a recognized occupation, and thus is ineligible.

Beth Jacob disagrees on all counts by averring that it maintains accreditation with the Accrediting Commission for Continuing Education and Training (ACCET), a nationally recognized accrediting association, and that both of its programs, its Religious Education Program and its Jewish Culture Program, prepare students for gainful employment in a recognized occupation.

## I

To be an eligible institution under Title IV, an institution must be accredited by a nationally recognized accrediting agency or association. 20 U.S.C. §§ 1141(a)(5) and 1088(c) (1988). SFAP does not dispute that Beth Jacob is accredited by ACCET. SFAP Initial Br. at 4-5, 7. Nor does SFAP appear to dispute that ACCET is a nationally recognized accrediting agency. Therefore, Beth Jacob satisfies the plain meaning of the statute because it is accredited by a nationally recognized accrediting agency or association.

At the time the proceeding was initiated, Beth Jacob was classified by ACCET as an "avocational" institution. SFAP argued that this meant that the school was accredited only insofar as it provided avocational training, and, therefore, did not satisfy the accreditation requirement of 20 U.S.C. §§ 1141(a) and 1088(c). SFAP correctly observed that because Beth Jacob did not offer programs which issued degrees, Beth Jacob must provide a program of training to prepare students for gainful employment in a recognized occupation. 20 U.S.C. §§ 1141(a) and 1088(c). From this, SFAP claims that there is necessarily a nexus between these two separate statutory requirements.

This argument has been rejected in numerous decisions of this tribunal. *See In re Derech Ayson Rabbinical Seminary*, Dkt. No. 94-50-ST, U.S. Dep't of Educ. (Oct. 4, 1994), at 2-3; *In re Academy for Jewish Education*, Dkt. No. 94-51-ST, U.S. Dep't of Educ. (Aug. 1, 1995), at 2-3; *In re Sara Schenirer Teachers Seminary*, Dkt. No. 94-49-ST, U.S. Dep't of Educ. (June 21, 1995), at 4. *See also* related cases cited in *Sara Schenirer* at n.5. These decisions explicitly rejected SFAP's "nexus" theory by holding that ACCET's accreditation of an institution as avocational was sufficient to satisfy the definition of an eligible institution that requires that it be accredited by a nationally recognized accrediting agency. [See footnote 3 3](#)

This accreditation dispute has been resolved because the January 29, 1996, letter from ACCET to Beth Jacob, in which ACCET stated that it had provisionally approved Beth Jacob as a vocational institution, arguably satisfies the requirements of 20 U.S.C. § 1141(a)(5) as a "preaccreditation status". Nonetheless, in light of the precedents cited above, it is not necessary to base my decision upon this letter.

Accordingly, I find that Beth Jacob satisfied the first prong of the definition of an eligible institution, which requires it to be properly accredited by a nationally recognized accrediting agency.

## II

Having found that Beth Jacob meets the accreditation requirement, I must address the second prong of the definition of an eligible institution: whether either Beth Jacob's Religious Education program or its Jewish Culture program is a program that prepares students for gainful employment in a recognized occupation. To be eligible to participate in Title IV programs, the institution must have at least one program that trains students for gainful employment in a recognized occupation. I find that the Religious Education program satisfies this requirement, although the Jewish Culture program does not.

### Beth Jacob's Religious Education Program

As discussed above, ACCET previously designated Beth Jacob as an "avocational" institution. However, in 1994 Beth Jacob applied for reaccreditation by ACCET as a "vocational" institution, and on January 29, 1996, ACCET informed the school by letter that it had provisionally approved Beth Jacob as a vocational institution because ACCET found Beth Jacob's Religious Education Program was designed for an occupational objective. I find this to

be strong evidence that Beth Jacob is a vocational school and that its programs prepare students for gainful employment in a recognized occupation.

I arrived at this finding despite the fact that many of Beth Jacob's pre-1994 statements to ACCET stated that the school did not prepare students for gainful employment in a recognized occupation. For example, in ACCET Document 8, filed on March 11, 1993, Beth Jacob described itself as avocational. Ex. E-16-1. In ACCET Document 24.2, filed in March 1993, Beth Jacob declined to refer to any occupations listed in the Dictionary of Occupational Titles (DOT) for which the school trained its students. Ex. E-17.

According to documents and earlier evaluations considered by ACCET, in 1993 Beth Jacob's Religious Education Program consisted of three programs: 1) Religious Education leading towards an Associate Certificate, also labeled as the Certificate in Religious Studies Program, 2) Religious Education leading towards a Morah/Teachers Certificate, and 3) Religious Education leading towards an Advanced Teachers Certificate. Ex. E-21-2. In response to a July 1993 ACCET Reaccreditation Examination Team Report, however, Beth Jacob stated there were currently no students registered in either of the two teachers certificate programs and that these two programs were not current program offerings. Ex. E-21-3. This fact is confirmed by the report of the ACCET On-Site Examination Team Visit of Beth Jacob which followed the team's March 9, 1995, visit. During that visit the team evaluated the Certificate in Religious Studies Program, which they noted was the only program being offered by the institution. The report continued, "[A]nother program, the Religious Teachers for Newly Arrived Immigrants Certificate has been suspended pending further review by ACCET."

The report concluded that Beth Jacob "provided considerable documentation and exhibited operational characteristics consistent with that documentation ... in support of their

request for consideration for vocational classification." In reaching the conclusion that the Religious Education Program had an occupational objective, the team considered a number of critical areas of operation at Beth Jacob. The team's report noted that the draft version of the institution's 1995 catalog highlighted that its superior training permitted its graduates to secure positions as teachers and, thus, it emerged as one of the foremost teacher-training seminaries in the country. The interviews of Beth Jacob's staff indicated that the institution's mission had always included a teacher program, so it always had a vocational purpose. The team found that the course offerings included five courses addressing topics of education, teaching methodology, classroom skill, and classroom management. A review of pre-registration student questionnaires contained in student files disclosed that the students enrolled in the program with the intent of obtaining training they could use to gain employment in the teaching field. The team next interviewed employers of a sample of recent graduates and were able to verify employment. Additionally, the employers all said that the training these former students received was necessary for the positions held. In a related subject area, the team concluded that Beth Jacob had a valid placement program in operation for its graduates.

In the January 13, 1994, emergency action in this case, which was held subsequent to the 1993 ACCET Reaccreditation Examination Team Report, the judge found that Beth Jacob's teacher

training programs were eligible under the HEA because they were designed to prepare students for gainful employment in a recognized field. The judge stated as follows:

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, un rebutted 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.

*In re Beth Jacob Hebrew Teachers College*, Dkt. No. 94-10-EA, U.S. Dep't of Educ. (March 25 1994), at 2. As SFAP correctly points out, these rulings and stipulations are not binding in the present termination action. Nonetheless, I accord them considerable weight, especially since they are supported by the transcript of the testimony from the emergency action.

Other statements contained in Beth Jacob's 1993 Analytic Self-Evaluation Report, the ACCET reaccreditation report, the school's response to that report, and the March 1995 ACCET On-Site Examination Team Visit Report demonstrate that Beth Jacob was highly regarded both within the Jewish community and without for its teacher training programs. *See* Ex. E-19, E-20, and E-21. *See also* Resp. Reply Br. at 16.

Under 34 C.F.R. § 668.116(d), SFAP carries the burden of persuasion in this termination action, and it has not convinced me that the Religious Education Program does not prepare students to become teachers, a recognized occupation. The stipulations at the emergency action hearing and ACCET's recent reaccreditation of Beth Jacob as a vocational institution, as well as some of Beth Jacob's statements in its correspondence with ACCET and in its supplemental brief, constitute strong evidence that the school prepares students for gainful employment as teachers. Accordingly, I find that the Religious Education program qualifies as a program of training that prepares students for gainful employment in a recognized occupation.

#### Beth Jacob's Jewish Culture Program

In documents filed with ACCET, Beth Jacob stated that its Jewish Culture Program offers English, life-survival skills, Hebrew, and general Jewish subjects to recently arrived immigrants. Ex. E-22-1. Beth Jacob further stated that "vocational retraining or job-related skills are not components of our continuing education programs." *Id.* In response to ACCET's reaccreditation examination team report, Beth Jacob stated as follows:

We would also like to point out that the Jewish Culture Program is not a vocationally oriented program. Our students do not aspire to an occupational outcome after concluding our program. Instead they attend in order to broaden the scope of their knowledge of Jewish Culture and to improve their English communications skills.

Ex. E-21-18. In this same response, Beth Jacob stated that "The Jewish Culture Program...is totally avocational." Ex. E-21-5. At various times, Beth Jacob has declined to give a reference to an occupational outlook handbook reference from the U.S. Department of Labor's Dictionary of Occupational Titles (DOT). Ex. E-17-2; Ex. E-51-3; Ex. E-52-3; Ex. E-53-4A.

Beth Jacob argues at pages 29-30 of its initial brief that "the goal of acculturation is not meant to serve merely as a possible enhancement of the students' desire to learn more about Judaism, but as a necessary tool to finding employment in the Orthodox Jewish community" and that "such an education is necessary to employment within the community [footnote omitted] rather than merely desirable..." (emphasis in original). Nonetheless, as this tribunal stated in *In re Derech Ayson Rabbinical Seminary*, Dkt. No. 94-50-ST, U.S. Dep't of Educ. (Oct. 4, 1994):

[W]hile integrating immigrants into American society is a worthy goal, it does not satisfy the statutory mandate that the program prepare students for gainful employment in a recognized occupation. To state that integrating immigrants into American society satisfies this statutory mandate because it further enhances their ability to obtain employment would strip the statute of all meaning. Under such a standard, almost any educational program would potentially enhance a student's ability to obtain employment and thus qualify.

*Id.* at 8. That decision also quoted from *In re Academy for Jewish Education*, Dkt. No. 94-11-EA, U.S. Dep't of Educ. (March 23, 1994), wherein the judge stated as follows:

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....

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....

Beth Jacob claims that its Jewish Culture Program prepares students for the occupations of kosher restaurant cook and home attendant, among others, and argues that without the training provided by the school, these students would be unable to find employment within the Orthodox Jewish community. Nonetheless, the exhibits demonstrate that Beth Jacob's Jewish Culture Program is designed primarily to teach its students, many of whom are recent immigrants, traditional Jewish culture, history, beliefs, and ideas in order to promote their intellectual, social, and personal growth. While these are worthy goals, and while some students subsequently have obtained jobs, I am not convinced that any of the training that is provided by this program, in and of itself, specifically trains students for employment in a recognized occupation; it trains students only to be familiar with Jewish culture. Once that knowledge is gained, then the students are expected to apply their past experiences to performing jobs similar to those referenced in Beth Jacob's brief and exhibits, such as kosher restaurant cook and home attendant, among others. I find that Beth Jacob's instruction only incidentally prepares its students for these occupations and

enhances their employability. *See In re Academy for Jewish Education*. This is insufficient to satisfy the regulatory definition of an eligible program. Moreover, in its supplemental brief, Beth Jacob stated that the Jewish Culture Program has not been offered since 1993. Accordingly, I find that this program is not an eligible program, and should it be offered again, students enrolled in this program shall not be eligible to participate in the Title IV, HEA programs.

#### Religious Teachers for Newly Arrived Immigrants Certificate (RTNAI)

In its supplemental brief, Beth Jacob stated that the RTNAI program is an offshoot of both the Religious Education and Jewish Culture programs. The school contends that the RTNAI program trains new immigrants to become teachers of subsequent immigrants and that this program has been approved by ACCET. Inasmuch as the termination letter did not challenge this program, which did not exist at that time, and the fact that as of March 1995 the offering of

this program had been suspended, [See footnote 4 4](#) I do not find it necessary to determine whether or not this program prepares students for gainful employment in a recognized occupation, especially since I have already determined that Beth Jacob as a whole is an eligible institution because it has at least one program that prepares students for gainful employment in a recognized occupation.

### FINDINGS

1. Beth Jacob is properly accredited by a nationally recognized accrediting agency.
2. Beth Jacob's Religious Education program is a program of training that prepares students for gainful employment in a recognized occupation.
3. Beth Jacob's Jewish Culture Program is not a program of training that prepares students for gainful employment in a recognized occupation.

### ORDER

On the basis of the foregoing, it is hereby ordered that the eligibility of Beth Jacob Hebrew Teachers College to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 should not be terminated.

---

Judge Richard F. O'Hair

Dated: July 9, 1996

---

## SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested to the following:

Nahal Motamed, Esq.  
George Shebitz & Associates, P.C.  
1370 Avenue of the Americas  
New York, NY 10019

Howard Sorensen  
Office of the General Counsel  
U.S. Department of Education  
600 Independence Avenue, S.W.  
Washington, D.C. 20202-2110

---

*[Footnote: 1](#) 1 20 U.S.C. § 1141(a), 34 C.F.R. 600.4(a)(4)(I)-(iii).*

---

*[Footnote: 2](#) 2 20 U.S.C. § 1088(c)(1), 34 C.F.R. § 600.6(a)(4).*

---

*[Footnote: 3](#) 3 As discussed in Sara Schenirer at pages 2-3 and in Academy for Jewish Education at pages 2-3, avocational accreditation of an institution by ACCET after February 9, 1995, will not satisfy the statutory accreditation requirement.*

---

*[Footnote: 4](#) 4 ACCET report of the March 9, 1995, On-Site Examination Team Visit of Beth Jacob.*

---

---