
IN THE MATTER OF ACADEMY FOR Docket No. 94-51-ST
JEWISH EDUCATION, Student Financial
Respondent. Assistance Proceeding

DECISION

Appearances: Nahal Motamed, Esq., George Shebitz & Associates, P.C., of New York, New York, for Academy for Jewish Education.

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

Before: Judge Richard F. O'Hair

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 Academy for Jewish Education (AJE) 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 which was initiated by the Department against AJE on January 13, 1994, and which, following a hearing, was upheld on March 23, 1994. AJE filed a request for hearing on March 4, 1994.

This termination proceeding is based on the alleged failure of AJE 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. 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](#)

The Department maintains that AJE does not satisfy any of these statutory definitions because AJE is not properly accredited and neither of its two programs leads 1) 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. AJE 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 Jewish Studies program and its Advanced Diploma in Jewish Studies program, prepare students for gainful employment in a recognized occupation.

Accreditation

SFAP contends that AJE is not properly accredited by ACCET because ACCET has categorized AJE as an avocational, rather than a vocational, educational institution. According to SFAP, such an accreditation has no nexus with the offering of any HEA-eligible programs and, therefore, cannot be afforded recognition as "accredited" in order to qualify for Title IV funding. AJE replies that it satisfies the statutory requirements because it maintains accreditation with ACCET, a nationally recognized accrediting association, and that ACCET's internal classifications of vocational and avocational are irrelevant.

In *In the Matter of Sara Schenirer Teachers Seminary*, Dkt. Nos. 94-49-ST and 94-87-ST, U.S. Dep't of Educ. (June 21, 1995), the parties raised virtually identical arguments as to the school's accreditation by ACCET as an avocational institution. I discussed the Secretary's February 9, 1995, letter to ACCET informing it that the Secretary "re-recognized" ACCET as an accrediting agency for an additional three year period. That letter limited ACCET's scope of recognition to its accreditation of continuing education "vocational" programs and stated that institutions that provided only non-collegiate continuing education "avocational" programs and were accredited solely by ACCET would not qualify as eligible institutions of higher education under the HEA. I held that this correspondence eliminates all doubt that any ACCET accreditation of an institution as avocational after February 9, 1995, will not satisfy the first prong of the definition of a Title IV eligible institution. I also held, however, that the Secretary's February 9, 1995, recognition is an after-the-fact limitation on future accreditations and, therefore, has no bearing on the current accreditation of a school that has been accredited by ACCET as an "avocational" institution. Inasmuch as the issues as to ACCET's accreditation of AJE as "avocational" in the instant proceeding are identical to those raised in *Sara Schenirer*, I

adopt my rulings from that decision. As in *Sara Schenirer*, I specifically reject SFAP's contention that ACCET's accreditation of AJE has no nexus with the offering of any HEA-eligible programs. I find that the school's pre-February 9, 1995, accreditation satisfies the prong of the definition of an eligible institution that requires it to be accredited by a nationally recognized accrediting agency and find that this accreditation continues until it expires, at which time AJE can submit a request for renewal. If it seeks and/or obtains accreditation as an avocational institution, it would then be unable to satisfy the statutory definition of an eligible institution.

Gainful Employment in a Recognized Occupation

Having found that AJE meets the accreditation requirement for the remaining period of its current ACCET accreditation, I must address the second prong of the definition of an eligible institution: whether either AJE's Judaic Studies program or its Advanced Diploma in Jewish Studies 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. Neither the Judaic Studies program nor the Advanced Diploma in Jewish Studies program satisfies this requirement.

As SFAP notes at pages 15-22 of its brief, and the exhibits amply demonstrate, AJE's prior statements belie its current contention that its programs prepare students for gainful employment in a recognized occupation. In various documents filed with ACCET, AJE has stated that it is an avocational school and that its programs do not prepare students for employment in any particular occupation listed in the Dictionary of Occupational Titles (DOT). In its Analytical Self Evaluation Report (ASER) filed with ACCET in March 1993, AJE reported that it offers avocational curricula that are not tied to market needs or vocational opportunities and that students register in its programs expressly for the purpose of enhancing their understanding of Jewish culture and tradition. AJE further stated that it seeks to promote the study of traditional Jewish culture, beliefs, and ideas in order to create educated, reflective, and morally sensitive citizens who form the basis of a good and wise society. AJE also explained in its ASER that its programs are not designed to prepare students for occupational certification and licensing, that it does not train students for a vocation, that it does not train students for certification, that its curriculum is not keyed to the job market or industry needs, and that admission to its program is not based on prospective students' interest in or ability to succeed in any occupation, but is based instead on the students' desire to experience intellectual, social, and personal growth. Moreover, in that same ASER, AJE stated that:

While AJE courses may help prepare students for employment in Jewish service industries such as educational institutions and social service, this is ancillary to our program. We make no representation in our mission or in any of our literature about any vocational applicability of our program and in fact do not offer licensing, certification, or any professional credential.

Finally, AJE's course offerings focus primarily on Jewish culture, religion, and history, with additional courses in English as a second language.

In response, AJE claims that its programs prepare 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 AJE's programs are 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 these programs, 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 AJE's brief and exhibits, such as kosher restaurant cook and home attendant, among others. I find that AJE's instruction only incidentally prepares its students for these occupations and enhances their employability. *See In the Matter of Academy for Jewish Education*, Dkt. No. 94-11-EA, U.S. Dep't of Educ. (March 23, 1994). This is insufficient to satisfy the regulatory definition of an eligible institution.

In conclusion, I find that AJE meets the statutory requirement that it be accredited by a recognized accrediting agency or commission, at least through its current period of accreditation by ACCET. I do not find, however, that AJE offers any programs that train its students for gainful employment in a recognized occupation. Accordingly, AJE fails to satisfy the statutory requirements as currently written to qualify as either an institution of higher education or a postsecondary vocational institution.

FINDINGS

1. AJE is accredited by a nationally recognized accrediting agency or association.
2. AJE's Jewish Studies program does not provide a program of training that prepares students for gainful employment in a recognized occupation.
3. AJE's Advanced Diploma in Jewish Studies program does not provide 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 the Academy for Jewish Education to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 be terminated.

Judge Richard F. O'Hair

Issued: August 1, 1995
Washington, D.C.

S E R V I C E

A copy of the attached initial decision was sent by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED** to the following:

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[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).