
In the Matter of SARA SCHENIRER TEACHERS SEMINARY,
Respondent.

Docket No. 94-8-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 Sara Schenirer Teachers Seminary (Schenirer) 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 Schenirer 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 Beth Jacob Hebrew Teachers College and the Academy for Jewish Education, Schenirer 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 Schenirer'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 Schenirer, 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 Schenirer did not offer an eligible program under the provisions of 20 U.S.C. § 1088(c).

Schenirer was founded in order to offer a "challenging program of higher Jewish study that will prepare women to serve as teachers, mothers, and fully realized individuals in the Jewish community." Schenirer's 1991-1992 Catalog. Schenirer asserts that its mission extends beyond that of a traditional vocational school, but that it has not excluded from this mission the occupational potential which its programs offer. Schenirer offers both Jewish cultural studies programs and teachers programs.

From the evidence presented, I find that the Jewish Cultural Studies program is not an eligible program for HEA purposes. For a further discussion of the applicable law regarding programs of this type, 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).

There are two teachers programs at Schenirer: a one year/full day program and a two year/half-day program. Both require the completion of 64 credits. At the hearing, the parties stipulated that Schenirer 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. Consistent with the parties' stipulation, I find that the 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, see my Decision in In the Matter of Seminar L'Moros Bais Yaakov, Docket No. 94-37-EA, U.S. Dep't. of Education (March 21, 1994).

ED argues that Schenirer 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 Schenirer is appropriately accredited consistent with my findings in In the Matter of Seminar L'Moros Bais Yaakov, supra.

To be eligible to participate in any Title IV program, Schenirer 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 Schenirer met its burden in demonstrating that its programs offered such training. Moreover, I have found that Schenirer's ACCET accreditation meets the mandates of the HEA, consistent with the above.

Finally, I must note where this case is distinguishable from either of the above-cited cases. In order to be deemed an eligible institution for HEA purposes, an institution must offer an HEA eligible program. Schenirer offers such a program and, therefore, the seminary is an eligible institution. Indeed, testimony given by the Director of the ED Institutional Participation Division, Office of Student Financial Assistance Programs, indicates that so long as the institution offers one eligible program, even if a minute percentage of an institution's students are enrolled in that eligible program, the institution, itself, remains eligible. However, only those students enrolled within the eligible program are eligible to received HEA-based assistance. Here the evidence suggests that students other than those enrolled in an eligible program may have received Title IV funds, however, as SFAP opted to apparently not pursue this issue by this

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 Schenirer 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 Schenirer 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

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Judge Ernest C. Canellos
Designated Deciding Official

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