



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

In the Matter of

**BETH MEDRASH EYUN
HATALMUD,**

Respondent

Docket Number 94-45-ST
Student Financial Assistance
Proceeding

ORDER OF REMAND

On May 28, 1996, I received Beth Medrash Eeyun Hatalmud's (BMEH) appeal of the April 23, 1996, initial decision issued in this matter. The Department's Office of Student Financial Assistance Programs (SFAP) filed an opposition to BMEH's appeal on July 2, 1996. In the initial decision, the tribunal below upheld SFAP's termination of BMEH's eligibility to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended. Initial Decision at 1, 5. SFAP alleged BMEH did not offer a program of study that has as its primary purpose the training of students in preparation of gainful employment in a recognized occupation as required by 20 U.S.C. § 1141(a). Relying on employment information as well as on a review of the school's cultural traditions and mission statements, the tribunal below affirmed SFAP's decision and ordered the termination of BMEH's eligibility to participate in the student financial assistance programs.

In its appeal, BMEH contends that the hearing official: 1) applied an erroneous legal standard by placing the burden of persuasion on BMEH rather than SFAP; 2) ignored BMEH's persuasive documentary and testimonial evidence; and 3) erroneously failed to address the alleged unlawfulness of SFAP's delegation of responsibility for proving BMEH's ineligibility.

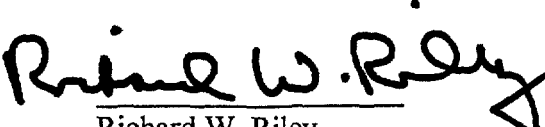
In its response, SFAP argues that expert testimony and the other evidence adduced at trial overwhelmingly supports the initial decision against BMEH. In addition, SFAP cites several cases to demonstrate that the initial decision is consistent with past cases that were affirmed by the Secretary.

At this time, I am unable to affirm, overturn, or modify the initial decision. The decision warrants further explanation because the tribunal's reasons underlying its ruling are unclear. Therefore, I order the tribunal to elaborate on the reasoning behind its conclusion.

For example, I would like to know what employment statistics served as a basis for the tribunal's decision. In addition, I would like to know the "statements in [BMEH's] catalogs and reports to accrediting agencies" that persuaded the tribunal to deny eligibility. Initial Decision at 5. Finally, I would like to know how the Accrediting Council for Continuing Education and Training's conditional classification of BMEH as an accredited vocational school effected the tribunal's decision.

I believe clarifying these and other issues will help to ensure that this case provides clear guidance for future proceedings involving similar facts.

So ordered this 25th day of July 1996.


Richard W. Riley

Washington, D.C.

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